A SYSTEM OF STILES,

AS NOW PRACTISED

Within the KINGDOM of *SCOTLAND*,

Reduced to a clear METHOD,

Conſiſting of SIX PARTS.

I. Real and perſonal Diligence.
II. What paſſeth the Privy Seal only.
III. Summonſes paſſing the Signet.
IV. What Letters paſs the Signet, and ſuch Precepts in Latin as upon Signatures paſs alſo the Signet and whole Seals, except the Quarter-ſeal, and what paſſes the Great Seal *per ſaltum*.
V. All Securities, Contracts of Marriage, Tailzies, Mortifications, Liferent-rights, Proviſions of younger Children, Excambions, and the like.
VI. Services, Tutories, Summonſes of Error, and others.

By GEORGE DALLAS of SAINT-MARTINS.

The SECOND EDITION, with a new Index and Gloſſary:

VOLUME I.

EDINBURGH:

Printed for the Publiſher J. WOOD, and ſold by him and J. BELL, C. ELLIOT, and the other Bookſellers in Town.

M.DCC.LXXIII.

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A SYSTEM OF STILES,

AS NOW PRACTISED

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Conſiſting of SIX PARTS.

VOLUME I.

Containing the firſt THREE PARTS,

VIZ.

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II. What paſſeth the Privy Seal only.
III. Summonſes paſſing the Signet.

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M.DCC.LXXIV.

ADVERTISEMENT.

IN order to make this Collection of more univerſal uſe, I intend, as a Supplement, to add a Third Volume, conſiſting of NEW STILES.

Any Gentleman who chuſes to contribute his Aſſiſtance, either by pointing out what is moſt proper to be added, or tranſmitting to me Draughts or Scrolls of the beſt modern Forms juſt now in uſe, that have been omitted in the former Collections, they ſhall have value for them, if required, and care will be taken to get them properly arranged, and correctly printed, which will be a ſervice done the public in general, and a particular favour to their

moſt obedient and humble ſervant

EDINBURGH, May 16. 1774.

JOHN WOOD.

The EDITOR to the PUBLIC.

THE following SYSTEM of STILES, which has long been the compleateſt and almoſt only ſtandard book in print on the ſubject in this country, was compoſed and publiſhed, as the title bears, by George Dallas of St Martins, writer to the ſignet, a gentleman eminent in his profeſſion.

After the author had uſed them with great ſucceſs in his own extenſive practice for upwards of thirty years, he was earneſtly ſolicited by the beſt judges to publiſh them for the public good, which he generouſly did in the year 1697, from which time they have not only been almoſt univerſally followed by the writers to the ſignet, and other conveyancers, but alſo appealed to by the lawyers in their private practice and public pleadings, nay, even cited as authorities by our beſt hiſtorians.*

But a change of church-government in this country having happened in the year † 1688, and the Scots parliament having been diſſolved by the union in the 1707, theſe two great events muſt no doubt have rendered ſeveral of the forms in theſe ſtiles no longer uſeful.

The editor, on this account, at firſt thought of new-modelling the ſyſtem, by throwing out the forms which had become obſolete, and inſerting modern ones in their place. But, beſides the difficulty of the taſk, he was aſſured by thoſe whoſe judgement he thought it his duty to truſt to, that gentlemen of taſte, in fitting up a collection of law, would wiſh to be poſſeſſed of the old as well as new ſtiles: He therefore came to the reſolution of publiſhing Mr Dallas's collection entire, with only ſome ſmall improvements, and the correction of ſome typographical errors, of which there are a great many in the firſt edition; and to render his firſt plan more practicable and perfect, he has added the preceding advertiſement.

When it is conſidered, at what an extravagant price Dallas's Stiles are now ſold on account of their ſcarceneſs, the editor hopes, he has done a favour to the public, by preſenting them with an edition much more correct and beautiful at half the money.

* Dr Robertſon, David Hume, Eſq; *&c.*

† Mr Dallas began to compoſe this large collection of Stiles in the year 1666, and finiſhed them in the 1688.

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To the NOBLE and POTENT EARL,

JOHN

Earl of Tullibarden, Viſcount of Glenalmond, Lord Murray, &c. and Lord Secretary of State for the kingdom of Scotland; George Dallas of St Martins, author of the whole work, whereof this is the Firſt Part, wiſheth all happineſs.

MY LORD,

SOME nine years ago, and before I reſolved to expoſe my works to the preſs, I dedicated this firſt part to your Lordſhip, then under the title of Lord Murray, eldeſt lawful ſon to the Marquis of Athole, in writ, being then entered upon the management of that ancient and noble eſtate, whereof your Lordſhip is the lineal ſucceſſor; and now being perſwaded by ſome perſons of the greateſt quality in the kingdom, and others in public ſtations, as Lords of Seſſion, eminent Lawyers, and others, to commit my works to the preſs: I continue my dedication of this firſt part to your Lordſhip, through the ſentiment I have of your Lordſhip's virtuous favours I received from this noble family of Athole, which your Lordſhip now repreſents, and the relation I have thereto, and ſo much more my honour. This part of the work, altho' ſhort, yet caſting your eyes upon it, your Lordſhip will find, that by references from one place to another, it is of large extent. The gift is not great, but being given with a frank heart, and chearful mind, and ſo twice given, I expect the reception will be the greater, and that your Lordſhip will give it lodging, and your patrociny; which, if it meet with, all propoſed being your Lordſhip's good, is enjoyed by,

MY LORD,

Your Lordſhip's devoted ſervant,

GEO. DALLAS.

To the READER.

THE work before you consists of Stiles, divided into six Parts; and not the product of a few days, but several years. I do acknowledge, Stiles, in former times, have been generally good and formal; but not being digested into method, required a long time, and great experience and employment, before youth attained to perfection in the art of writing to the signet, and diving into the exact knowledge of securities, either in a legal or conventional strain and channel. I cannot, and without the least vanity, but say, my education in these was good, which was from Mr John Bayn of Pitcarly, a great penman in his age, and so known; nor did I misimprove it since the year 1652, that I entered an apprentice, nor was I awanting in casting my eyes, at times, upon the charter-chests and evidences of persons of all qualities, as occasion offered; and from all these I had my observes: and at first, anno 1666, after I was recovered of sickness, I resolved only to prosecute this work in manuscripts, for the use of my children, then young, should I, by the course of Providence, be called from time before their further years and education, if not in my own, yet in some other art: But having, by the mercy of God, outlived that fear, I was desired by persons, not of the meanest, but even the greatest quality in the nation, viz. Lords of the seat, lawyers, and some of my own brethren in station, to expose my works to the press, for the good of the present and future ages, which now at their desire, and for the end aforesaid, and as a small memoir of myself, I have done. And as in the whole, or any part thereof, I assume no infallibility to myself, through my being convinced of the truth of that principle, non omnia possumus omnes, so I expect you will make use of the best, and pardon any thing that may have escaped me in so large a work; and I assure you, there was none in my intentions; and as to take the will for the deed is an old adagium, so it lodges much of humanity, yea religion itself, in its bosom. And when I have done all, I resolved on the work, let no man so far deceive himself as to conclude, that speculative knowledge, or theory, without the practical, will ever make a complete penman; but by the method taken, a man may, by education, attain to more knowledge in two, than formerly in seven years.

REAL

REAL and PERSONAL DILIGENCE.

PART I.

MOVEABLE BOND.

I A. B. by thir preſents, grant me to have borrowed and received from G. D. all and hail the ſum of uſual Scots money, whereof I hold me well content, ſatisfied, and paid, and for me, my heirs, and executors, exoner and diſcharge the ſaid G. D. his heirs, executors, and all others whom it effeirs of the ſamen; (renouncing the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary) by thir preſents for now and ever. Whilk ſum of money foreſaid as principal, with the annualrent thereof to the term of payment underwritten, I as principal, and C. D. as cautioner, ſecurity, and full debtor for and with me, by thir preſents, bind and oblige us conjunctly and ſeverally, our heirs, executors and ſucceſſors, and intromitters, *&c.* whatſoever, thankfully to refund, content, pay, and deliver again to the ſaid G. D. his heirs, executors or aſſigneys, betwixt the date hereof and the feaſt and term of next to come, but longer delay, fraud or guile, with the ſum of money foreſaid, of liquidate expences in caſe of failzie, or regiſtration of thir preſents in our default, together with the ordinary annualrent and profit of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not-payment thereof, after the ſaid term, but prejudice always to the ſaid G. D. and his foreſaids, to ſuit all manner of execution hereupon for payment of the ſaid ſums at the ſaid term, appointed for that effect, or at any other term or time thereafter they pleaſe, notwithſtanding of the foreſaid clauſe made anent payment of annualrents. And I the ſaid A. B. by thir preſents, bind and oblige me and my foreſaids, to warrant, free, relieve, harmleſs and ſkaithleſs keep my ſaid cautioner and his foreſaids, of his ſaid cautionry, and of all coſt, ſkaith, damage, intereſt, charges and expences they ſhall happen to ſuſtain or incur therethrough, directly or indirectly, by whatſoever manner of way in time coming:

And for the more ſecurity, we are content, and conſent thir preſents be inſert and regiſtrate in the books of council and ſeſſion, or others competent, to have the ſtrength of a decreet of the Lords or judges thereof interponed thereto, that letters of horning on ſix days and others neceſſary in form as effeirs, may be direct hereupon, and to that effect conſtitutes our procurators, *&c.* in witneſs whereof, *&c.* thir preſents, written, *&c.* with our hand at the day of 17 years, before thir witneſſes.

Nota, If there be two or more cautioners, and that there be a mutual relief, then the ſame muſt be immediately before the clauſe of regiſtration, and the clauſe of mutual relief conceived as follows:

And we the ſaid C. D. and E. F. cautioners above-named, by thir preſents, bind and oblige us, and our foreſaids, to warrant and relieve each of us others of our cautionry above-written, and of all coſt, ſkaith, damage, intereſt and expences, that ſhall be ſuſtained or incurred therethrough proportionally and *pro rata*.

If this bond be aſſigned, the aſſignation follows.

ASSIGNATION.

BE it known to all men by thir preſent letters, me G. D. Forasmuchas A. B. as principal, and C. D. as cautioner for him, by their bond dated the day of years (for the cauſes therein ſpecified) bound and obliged them, conjunctly and ſeverally, and their heirs and others therein mentioned, to have contented and paid to me, my heirs, executors, or aſſigneys, the ſum of as principal, with annualrent from the date of the ſaid bond to the term of payment under-written, and that betwixt and the term of then next to come, but longer delay, with the ſum of money foreſaid of liquidate expences in caſe of failzie, together with the ordinary annualrent of the ſaid principal ſum yearly, termly, and continually, during the not-payment thereof, after the ſaid term, as the ſaid obligation of the date foreſaid, inſert and regiſtrate in the books of council and ſeſſion, and a decreet of the Lords thereof interponed thereto, upon the day of years, in itſelf more fully proports. And now ſeeing W. G. has made payment to me of certain ſums of money, for granting of thir preſents, whereof I grant the receipt, holds me well content, ſatisfied, and paid, and for me, my heirs and executors, exoners and diſcharges the ſaid W. G. his heirs, executors, and all others whom it effeirs of the ſame (renouncing the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary, by thir preſents for now and ever. Therefore wit ye me to have made, conſtitute, and ordained, and by thir preſents make, conſtitute, and ordain the ſaid W. G. his heirs and aſſigneys, my very lawful, undoubted and irrevokeable ceſſioners and aſſigneys, in and to the

ſaid

ſaid ſum of as principal of expences, and annuals of the ſaid principal ſum, of all years and terms bygone, reſting, owing unpaid, and yearly and termly in time coming, during the not-payment thereof, (the terms of payment of the ſame being firſt come and bygone) and in, and to the foreſaid bond, decreet interponed thereto, and letters of horning, poinding, caption, inhibitions, arreſtment, and others following thereupon, executions, indorſations, and regiſtrations thereof, and all action, purſuit, inſtance, and execution, whatſoever competent, or that may be competent to me thereupon, with all that has followed or may follow on the ſaid bond; and I have ſurrogate, and by thir preſents, ſurrogate and ſubſtitute the ſaid W. G. and his foreſaids, in my full right, vice and place of the premiſſes by thir preſents for now and ever; with full power to the ſaid W. G. and his foreſaids, to intromit with, uplift, aſk, crave and receive the foreſaid ſums of money *reſpective* above-aſſigned, and to uſe and diſpone thereupon at their pleaſure; and if need be, to call and purſue therefore letters thereupon to raiſe, and the ſame or letters already raiſed, to due and lawful execution cauſe be put, and that either in their own name or mine, as they ſhall think expedient, compone, tranſact and agree thereanent, and upon receipt and payment of the ſaid ſums, in whole or in part, acquittances and diſcharges, to make, grant, ſubſcribe and deliver, whilks are hereby declared to be moſt valid and ſufficient to the receivers, and generally all and ſundry other things anent the premiſſes, to do, uſe and exerce: ſicklike, in the ſame manner, and as freely in all reſpects as I might do therein myſelf, before the making and granting of this preſent right and aſſignation; which I bind and oblige me, my heirs, executors, and ſucceſſors, to warrant, acquit and defend, to be good, valid, and ſufficient to the ſaid W. G. and his foreſaids, from my own proper fact and deed, done or to be done, in prejudice hereof. That is to ſay, that I have not made, nor ſhall not make any other aſſignation, diſcharge, or right of the premiſſes above-aſſigned, to no other perſon or perſons in prejudice hereof, at no time bygone or to come, (A.) Likeas I have inſtantly delivered to the ſaid W. G. the foreſaid regiſtrate bond, with all letters raiſed thereon, to be keeped and uſed by him and his foreſaids, as their own proper writs and evidents at their pleaſure in time coming. And for the more ſecurity,

Nota, If there be a part of the bond paid and diſcharged, then what is reſting ſhould only be particularly aſſigned, or the warrandice reſtricted; but the firſt is more ſecure: Yet if the ſums paid be not definitely known, let it be excepted as ſaid is, and the words conceived at the letter (A.) as follows.

Excepting always forth and from the foreſaid warrandice a diſcharge granted by me to the ſaid A. B. principal party for the ſum of of the ſums contained in the ſaid bond, dated the day of 17 years, whereunto the foreſaid warrandice ſhall no ways be extended.

If the bond and aſſignation be transferred, the tranſlation follows.

TRANSLATION.

TRANSLATION.

BE it known to all men by thir preſent letters, me W. G. aſſigney after-ſpecified. Foraſmuchas A. B. as principal, and C. D. as cautioner for him, by their bond dated the day of 17 years (for the cauſes therein ſpecified) bound and obliged them, conjunctly and ſeverally, their heirs and others therein mentioned, to have contented and paid to G. D. of his heirs, executors, or aſſigneys, the ſum of as principal, with annualrent from the date of the ſaid bond, to the term of payment under-written, and that betwixt and the term of then next to come: But longer delay, with the ſum of of expences in caſe of failzie, and annualrent thereafter during the not-payment, in manner ſpecified in the ſaid bond, which is regiſtrate in the books of council and ſeſſion, upon the day of years; and whereunto hail tenor and contents thereof, ſums of money principal, annualrents bygone, reſting, owing, and in time coming during the not-payment, and expences *reſpective* above-ſpecified therein contained, with all letters of horning, inhibition, caption, and others raiſed thereupon, with the executions thereof, with all that has followed or may follow on the ſame. The ſaid G D. by his aſſignation of the date the day of years, made and conſtitute me, my heirs, and aſſigneys, his undoubted ceſſioners and aſſigneys C. as the ſaid bond and aſſignation of the dates *reſpective* foreſaids, in themſelves more fully proport: And now ſeeing P. G. has made payment to me of certain ſums of money, at, and for the making and granting of thir preſents, whereof I hold me well content, ſatisfied, and paid, and for me, my heirs and executors, exoners and diſcharges the ſaid P. G. his heirs, executors, and all others whom it effeirs of the ſame, (renouncing the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary) by thir preſents for now and ever. Therefore wit yè me as aſſigney, and having right in manner foreſaid, to have aſſigned and transferred, and by thir preſents aſſigns and transfers to, and in favour of the ſaid P. G. his heirs and aſſigneys, the foreſaid ſum of as principal of expences, and annuals of the ſaid principal ſum of all years and terms bygone reſting, owing, unpaid; and ſicklike yearly and termly in time coming, during the not-payment thereof (the terms of payment of the ſame being firſt come and bygone) together with the foreſaid bond, decreet interponed thereto, letters of horning, inhibition, caption, and others raiſed thereupon, executions and regiſtrations thereof, aſſignation made to me of the ſame, and all action, purſuit, inſtance and execution whatſoever competent, or that may be competent to me in the premiſſes, with all that has followed or may follow on the ſame, and I have ſurrogate, and by thir preſents ſurrogate and ſubſtitute the ſaid P. G. and his foreſaids, in my full vice, right and place of the premiſſes for now and ever: With full power to them, to intromit with, uplift, aſk, crave and receive the foreſaid ſums of money above-aſſigned and transferred, and to uſe and diſpone thereupon at their pleaſure; and if need be, to call and purſue therefore letters thereupon to raiſe, and the ſame or letters already raiſed in their own

or my name, to due and lawful execution cauſe be put, compone, tranſact and agree thereanent, and upon receipt and payment in whole or in part, acquittances and diſcharges to make, grant, ſubſcribe and deliver: Whilks are hereby declared to be moſt valid and ſufficient to the receivers; and generally all and ſundry other things anent the premiſſes to do, uſe and exerce, ſicklike, and in the ſame manner, and as freely in all reſpects as I might do therein myſelf, before the granting of this preſent right and tranſlation, which I bind and oblige me, my heirs, executors and ſucceſſors, to warrant, acquit and defend, to be good, valid and ſufficient to the ſaid P. G. and his foreſaids, from my own proper fact and deed allenarly, done or to be done in prejudice hereof. That is to ſay, that I have not made, nor ſhall not make any other aſſignation, tranſlation, diſcharge, or other right of the premiſſes, to any other perſon or perſons in prejudice hereof, at any time bygone or to come: Likeas, I have inſtantly delivered to the ſaid P. G. the extract of the foreſaid bond, and all letters raiſed thereon, and aſſignation made to me thereof, to be kept and uſed by him and his foreſaids as their own proper writs and evidents, at their pleaſure in time coming: And for the more ſecurity

If the ſum be paid, the diſcharge follows.

DISCHARGE.

BE it known to all men by thir preſent letters, me P. G. to whom, and in whoſe favour, the bond after-ſpecified, and ſums of money therein contained, are aſſigned and transferred in manner after mentioned; foraſmuchas A. B. as principal, and C. D. as cautioner for him, by their bond dated the day of years (here deduce the narrative of the tranſlation aforeſaid till ye come to the letter C. and then ſay) likeas, the ſaid W. G. by his right and tranſlation of the date the day of years, (for the cauſes therein mentioned) aſſigned and transferred the haill premiſſes, with all that has followed thereupon, in favour of me and my heirs and aſſigneys, as the ſaid bond, aſſignation and tranſlation, of the dates reſpective, foreſaids in themſelves more fully is expreſſed at D. And now ſeeing the ſaid A. B. principal party foreſaid, has inſtantly made payment to me, as having right in manner foreſaid, of the ſaid principal ſum, annualrent reſting, preceding the date hereof, and expences neceſſarily deburſed in the ſaid matter, whereof I hold me well content, ſatisfied and paid, and renounces the exception of not numerate money, and all other exceptions and objections of the law whatſomever, that may be proponed or alledged in the contrary, by thir preſents, for now and ever: Therefore wit ye me, as having right in manner foreſaid, to have exonered, quite claimed, and *ſimpliciter* diſcharged; likeas, I, by thir preſents, exoner, quite claim, and *ſimpliciter* diſcharge the ſaid A. B. and his ſaid cautioner, and their heirs, executors, ſucceſſors and intromit-

ters whatſomever, of the foreſaid bond, decreet interponed thereto, ſums of money, principal, annualrents and expences reſpective above ſpecified, therein contained, and of all letters of horning, caption, inhibition, arreſtment, and others raiſed thereupon, with the executions, indorſations and regiſtrations thereof; and of all action, purſuit, inſtance and execution whatſomever, competent, or that may be competent to me thereupon, with all that has followed, or may follow on the ſame, by thir preſents, for now and ever; and I bind and oblige me, my heirs, executors and ſucceſſors, to warrant, acquit, and defend this preſent diſcharge to be good, valid and ſufficient to the ſaid principal and cautioner, and their foreſaids, for their exoneration of the premiſſes, at all hands, and againſt all deadly, as law will: and conſents that the ſaid principal and cautioner be relaxed from the horn, whereunto they are denounced for the cauſe foreſaid, by way of ſuſpenſion or otherwiſe as accords, and that but caution or conſignation, and for the more ſecurity

Nota, If the cautioner be diſtreſſed, and forced to pay the money, then he muſt be diſcharged of his cautionry, and aſſigned againſt the principal party in manner following.

DISCHARGE *and* ASSIGNATION.

BE it known to all men by thir preſent letters, me P. G. to whom, and in whoſe favour, the bond after ſpecified, and ſums of money therein contained, are aſſigned and transferred in manner after mentioned; foraſmuchas, (here take in the narrative of the former diſcharge till ye come to the letter D. deducing the aſſignation in the third perſon, and then ſay) and now ſeeing the ſaid C. D. as diſtreſſed cautioner, has inſtantly made payment to me, as having right in manner foreſaid of the ſaid principal ſum, annualrents reſting preceding the date hereof, and expences neceſſarily expended in the ſaid matter, whereof I hold me well content, ſatisfied and paid, and renounces all exceptions in the contrary for now and ever: Therefore, wit ye me, as having right in manner foreſaid, not only to have exonered, quit claimed, and *ſimpliciter* diſcharged; likeas, I, by thir preſents, exoner, quit claim, and *ſimpliciter* diſcharge the ſaid C. D. cautioner foreſaid, his heirs, executors, ſucceſſors, and intromitters whatſomever, of his ſaid cautionry, and of all action competent againſt him or them therefor, and of the ſaid bond, decreet interponed thereto, and letters of horning, caption, and others raiſed againſt him thereanent, with all that has followed, or may follow on the ſame, by thir preſents, for now and ever; and I bind and oblige me, my heirs, and executors, to warrant the foreſaid diſcharge at all hands, and againſt all deadly, as law will: and alſo conſents the ſaid C. D. cautioner foreſaid be relaxed from the horn, whereunto he is denounced, for the cauſe

cauſe foreſaid, by way of ſuſpenſion, or otherwiſe as accords, but caution or conſignation; but alſo for the ſaid C. D. his better relief, and more ſure repayment of the ſaid ſums of the ſaid principal party, and his foreſaids, by thir preſents, (but any hurt, prejudice or derogation to the clauſe of relief contained in the ſaid bond, or any other relief apart, or otherwiſe competent to him of the law, or innovation thereof, or any of them in any ſort, *ſed accumulando jura juribus*), aſſign, transfer, and diſpone, in favour of the ſaid C. D. his heirs and aſſigneys, the foreſaid bond, decreet interponed thereto, haill tenor and contents thereof, ſums of money, principal, annualrents bygone, reſting, owing, and in time coming during the not-payment and expences reſpective above ſpecified, therein contained, letters of horning, poinding, caption, inhibition, arreſtments, and others raiſed thereupon, executions, and regiſtrations thereof, aſſignation and tranſlation aforeſaid, and all action, purſuit, inſtance, and execution whatſomever, competent, or that may be competent to me in the premiſſes; and hereby ſurrogates and ſubſtitutes them in my full right, vice, and place thereof, with all that has followed, or may follow on the ſame, by thir preſents, for now and ever: and that in ſo far allenarly as concerns, and may be extended to, and as the ſame may militate againſt the ſaid A. B. principal party, and his repreſentatives, and as execution may be had and uſed againſt them therefor, and no further: with full power to the ſaid C. D. and his foreſaids to intromit with, uplift, aſk, crave and receive, the foreſaid ſums of money above aſſigned and transferred from the ſaid principal party, and his foreſaids, and to uſe and diſpone thereupon at their pleaſure, and to charge and purſue therefor, letters for that effect to raiſe, and the ſamen, or letters already raiſed in my name, to due and lawful execution cauſe be put, compone, tranſact and agree thereanent, and upon payment to grant diſcharges, which ſhall be ſufficient to the receivers; and generally, all and ſundry other things anent the premiſſes to do, uſe, and exerce, ſicklike, in the ſame manner, and as freely in all reſpects as I might do therein myſelf, before the granting of this preſent tranſlation, right and diſpoſition, which (in ſo far as concerns, and may militate againſt the ſaid principal party, and his repreſentatives, as ſaid is,) I bind and oblige me and my foreſaids, to warrant from my own proper fact and deed allenarly, done, or to be done in prejudice hereof; that is to ſay, that I have not made, nor ſhall not make any other tranſlation, diſcharge, or other right of the premiſſes above transferred, and diſponed, as ſaid is, to any other perſon or perſons in prejudice hereof, at any time bygone or to come; likeas, I have inſtantly delivered to the ſaid C. D. the foreſaid regiſtrate bond, aſſignation and tranſlation, with what legal diligence followed thereon, to be kept and uſed by him, and his foreſaids, as their own proper writs and evidents, at their pleaſure in time coming, and for the more ſecurity

It is fit that all aſſignations, tranſlations, diſcharges, and the like writs, bear the delivery of the papers aſſigned, transferred or diſcharged; for, in caſe the ſubſtitute, or perſon diſcharged, recur upon his warrandice, he muſt make the papers forth-coming in this caſe, whereas he may alledge otherwiſe he never received them.

Beſides

Beſides the obſervation aforeſaid, ye are to conſider, that all writs obligatory, and aſſignations, tranſlations, diſpoſitions, contracts, charter-parties, indentures, renunciations, procuratories of reſignation apart, diſcharges, bonds of relief, and the like, ſhould bear a clauſe of regiſtration; and becauſe that ſome of them muſt bear, that execution may paſs, and others for conſervation; and if need be that execution paſs, I have (to prevent any error or miſtake in the vulgar) ſet down the clauſes of regiſtration fit to be inſert in all of them, (except that of a bond already done, and which may be a rule to all papers obligatory, not by way of contract,) and firſt I ſet down the clauſe of regiſtration of a diſcharge, or procuratory of reſignation apart, aſſignation and tranſlation being all one upon the matter.

Clauſe of regiſtration in a diſcharge, aſſignation, tranſlation, or procuratoy of reſignation apart.

And for the more ſecurity, I am content, and conſent thir preſents be inſert and regiſtrate in the books of Council and Seſſion, or others competent, therein to remain for conſervation, and if need be allenarly, that letters in form as effeirs may paſs hereupon; and to that effect conſtitutes my procurators, *&c.* In witneſs whereof, I have ſubſcribed thir preſents, (written by here inſert the writer's name, ſirname and deſignation,) with my hand at the day of years, before thir witneſſes (here inſert the particular witneſſes names, ſirnames and deſignations, ſo as in after times they may be known, live where they will.

Clauſe of regiſtration in a contract of marriage, or other contract, (or writ made by way of contract), as charter-parties, indentures, &c.

And for the more ſecurity, both the ſaid parties are content, and conſent thir preſents be inſert and regiſtrate in the books of Council and Seſſion, or others competent, to have the ſtrength of a decreet of the Lords, or judges thereof, interponed thereto, that letters of horning on ſix days, and others neceſſary, in form as effeirs, may paſs hereupon; and to that effect conſtitutes their procurators, *&c.* In witneſs whereof, the ſaid parties and perſons conſenters, have ſubſcribed thir preſents (written by here inſert the writer's name, ſirname and deſignation) with their hands, day, month, year of God, and place reſpective foreſaids, before thir witneſſes, (here inſert the witneſſes names, ſirnames, and deſignations diſtinctly, as above enjoined).

Nota, Diſcharges granted by creditors of a debt properly due to themſelves, diſcharges of houſe-mails, rents of land, and the like, and procuratories of reſignation apart, needs bear no other regiſtration than for conſervation; and ſhould the other words (and if need be allenarly, that letters in form as effeirs may paſs) be added, there is no error; but when an aſſigney diſcharges, letters ſhould paſs, becauſe the cedent might have done a deed, clauſe of regiſtration in a reverſion apart, renunciation

ation of annualrent out of lands, renunciation of a reverſion of a wadſet, aſſignation or diſpoſition to a reverſion, procuratory of reſignation *ad remanentiam*, and the like, all which in law ſhould be regiſtrate in the books and regiſters appointed for regiſtration of ſeiſins, *&c.* within ſixty days, conform to the act of parliament, muſt bear and contain the clauſe of regiſtration following, being of another nature, and for another deſign, than the former clauſes of regiſtration, as you may perceive.

And for the more ſecurity, I am content, and conſent thir preſents be inſert and regiſtrate in the books of Council and Seſſion, (appointed for the regiſtration of ſeiſins, reverſions and the like) or others competent, therein to remain for conſervation; and if need be, that letters in form as effeirs may paſs hereupon; and conſtitutes my procurators, *&c.* In witneſs whereof, I have ſubſcribed thir preſents (written by) with my hand at the day of years, before thir witneſſes

Clauſe of regiſtration in a ſubmiſſion, which differs from all the former.

And for the more ſecurity, both the ſaid parties-ſubmitters are content, and conſent thir preſents, with the decreet-arbitral to follow hereupon, be inſert and regiſtrate in the books of Council and Seſſion, or others competent, to have the ſtrength of a decreet of the Lords, or judges thereof, interponed thereto, that letters of horning on ſix days, and others neceſſary in form as effeirs, may paſs hereupon, and to that effect conſtitutes their procurators, *&c.* In witneſs whereof, the ſaids parties ſubmitters, in teſtimony of their ſubmiſſion, and the ſaid judges, arbitrators and overſman, in teſtimony of their acceptation, have ſubſcribed thir preſents, (written by writer to his Majeſty's ſignet,) and likewiſe the ſaid parties-ſubmitters have ſubſcribed the blank on the other ſide hereof with their hands, at the day of years, before thir witneſſes,

Nota, In all writs, if there be divers dates, becauſe all the parties are not preſent to ſubſcribe at one and the ſame time, then the dates, places and witneſſes, muſt be diſtinguiſhed thus, *viz.* At Edinburgh and Perth the and days of and years, before thir witneſſes reſpective, *viz.* to the ſubſcription of the ſaid A. B. at Edinburgh the ſaid day of I. M. and W. H. merchants burgeſſes of Edinburgh, and the ſaid writer hereof, and to the ſubſcription of the ſaid M. P. at Perth the ſaid day of P. H. and G. M. merchants burgeſſes of Perth, and G. W. writer there, inſerter of the laſt date, place, and witneſſes.

There is another thing that may fall out, and that is, at times there may be a marginal note by miſtake, or after agreement of parties, or to clear ſomething dubious; in which caſe, that marginal note muſt not only be ſubſcribed by the party, but alſo, when the witneſſes are inſert, he that inſerts them, whether the writer of the paper, or other perſon, muſt add theſe words, viz. *witneſs alſo to the marginal note.*

The

The next thing to be conſidered, is, what if the debtors will not pay without legal compulſitors? in which caſe the creditor may uſe perſonal or real execution, or both, in his option; and becauſe perſonal execution is for the moſt part firſt uſed, I ſhall diſcuſs it firſt, and ſo, concluding both debtor and creditor to be in life, for, if otherwiſe, the caſe would alter, as afterwards appears, the bond would be regiſtrate, and if not aſſigned, horning may be raiſed thereon, as follows.

HORNING *and* POINDING.

GEORGE, by the grace of God, King of great Britain, France and Ireland, Defender of the Faith, to our lovite meſſengers, our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting, forasmuchas, A. B. as principal, and C. D. as cautioner for him, by their bond dated the day of years, (for the cauſes therein ſpecified) bound and obliged them, conjunctly and ſeverally, their heirs, executors, and ſucceſſors, to have contented, and paid to G. D. his heirs, executors, or aſſigneys, the ſum of as principal, with annualrent thereof, from the date of the ſaid bond to the term of payment underwritten; and that betwixt the date foreſaid of the ſaid bond, and the feaſt and term of then next to come, but longer delay, with the ſum of money foreſaid of liquidate expences, in caſe of failzie, together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not-payment thereof, after the ſaid term, as the ſaid obligation of the date foreſaid, inſert and regiſtrate in the books of council and ſeſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining letters and executorials, to be direct thereupon, in manner underwritten, at more length proports: Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. as principal, and the ſaid C. D. as cautioner foreſaid, conjunctly and ſeverally, perſonally, or at their dwelling-places, to make payment to the ſaid G. D. of the foreſaid ſum of as principal, of expences, and annuals of the ſaid principal ſum of all years and terms bygone, reſting, owing, unpaid, and ſicklike yearly, and termly in time coming, during the not-payment thereof, (the terms of payment of the ſame being firſt come and bygone), after the form and tenor of the ſaid bond and decreet foreſaid, interponed thereto in all points, within days next after the charge, under the pain of rebellion, and putting of them to our horn; wherein if they failzie, the ſaid days being firſt come and bygone, that incontinent thereafter ye denounce them our rebels, and put them to our horn, and eſcheat, and inbring all their moveable goods and gear to our uſe, for their contemption; and

and alſo, that ye uſe the haill remanent order againſt them preſcribed by our act of parliament made thereanent; and ſicklike, that ye, in our name and authority foreſaid, fence, arreſt, appriſe, compel, poind, and diſtrain, all and ſundry the ſaid principal and cautioner, their readieſt goods, gear, corns, cattle, inſight, plenishing, horſe, nolt, ſheep, debts, ſums of money, and others whatſomever, pertaining and belonging to them where-ever, or in whoſe hands the ſame may, or can be apprehended; and failing of their moveable goods and gear poindable, that ye appriſe all and ſundry their lands and heritages, conform to the act of parliament, to the avail and quantity of the aforeſaid ſums, and make the ſaid G. D. compleatly paid thereof, after the form and tenor of the ſaid obligation, and decreet interponed thereto, in all points, according to juſtice, as you will anſwer to us thereon; the which to do, we commit to you conjunctly and ſeverally, our full power, by thir our letters, delivering them, by you duly execute and indorſed again to the bearer. Given under our ſignet at Edinburgh, the day of 17 and of our reign the year *per decretum Dominorum Concilii.*

This horning being execute and regiſtrate, caption may be raiſed, which I omit here, becauſe of the following caption, wherein there is no differ, but this may be raiſed at the creditor's own inſtance, and the other at the aſſigney's;

But if this bond be aſſigned, then the letters of horning would be raiſed at the aſſigney's inſtance as follows.

HORNING *and Poinding at the Aſſigney's Inſtance.*

GEORGE, *&c.* Forasmuchas it is humbly meaned and ſhown to us, by W. G. aſſigney after-ſpecified; that where A. B. as principal, and C. D. as cautioner for him, by their bond dated the day of years, (for the cauſes therein ſpecified) bound and obliged them conjunctly and ſeverally, their heirs, executors and ſucceſſors, to have contented and paid to G. D. his heirs, executors, or aſſigneys, the ſum of Scots money as principal, with annualrents therefor, from the date of the ſaid bond, to the term of payment underwritten, and that betwixt and the term of then next to come, without longer delay, with the ſum of money foreſaid, liquidate expences, in caſe of failzie, together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not-payment thereof after the ſaid term, as the ſaid obligation of the date foreſaid, inſert and regiſtrate in our books of council and ſeſſion, and a decreet of the Lords thereof interponed thereto, upon the day of years, ordaining letters and executorials to be direct thereupon in manner underwritten, ſhown the ſaid Lords, has teſtified in and to the which bond, haill tenor and

contents

contents thereof, ſums of money, principal, annualrents and expences reſpective, above ſpecified therein contained, and all action competent thereupon; The ſaid G. D. by his aſſignation of the date the day of years, made and conſtitute the ſaid complainer, his heirs and aſſigneys, his undoubted ceſſioners and aſſigneys, as the ſaid aſſignation alſo ſhown to our ſaid lords has teſtified (P.) And albeit it be of verity, that the ſaid complainer has oft and divers times deſired and required the ſaid principal and cautioner to have made payment to him as aſſigney foreſaids of the ſaid ſums, nevertheleſs they wrongouſly refuſed, and as yet refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent, thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. as principal, and C. D. as cautioner, conjunctly and ſeverally, perſonally, or at their dwelling-places, to make payment to the ſaid complainer, as aſſigney foreſaid, of the ſaid ſum of money foreſaid, as principal, of expences and annualrents of the ſaid principal ſum, of all years and terms bygone, reſting, owing, unpaid, and yearly and termly in time coming, during the not-payment thereof, (the terms of payment of the ſamen, being firſt come and bygone) after the form and tenor of the ſaid obligation, decreet interponed thereto, and aſſignation made to the ſaid complainer of the ſame in all points, within days next after the charge, under the pain of rebellion. The concluſion of the former horning would be followed in this only, whereas ye ſay in the former, and make the ſaid G. D. compleatly paid: In this ſay, and make the ſaid complainer compleatly paid and next, when ye come to the words, after the form and tenor in the poinding, ſay it thus, ——— after the form and tenor of the ſaid obligation, decreet interponed thereto, aſſignation above-ſpecified, made to him of the ſame in all points according to juſtice, becauſe the lords has ſeen the regiſtrate bond and aſſignation above-written, as ye will anſwer.

Ex deliberatione Dominorum Concilii.

Nota, All hornings, or regiſtrate bonds, decreets, and acts of the Lords, (as in modifications *pendente lite*) not bearing days, as ſix, ten, or fifteen, but in form as effeirs, muſt be on fifteen days, and muſt paſs by way of bill, as the warrant thereof; as alſo, all hornings on inferior decreets, as ſheriff, commiſſary, bailies of boroughs, ſtewartries, and regalities, muſt be on fifteen days; and all letters on acts of parliament, if not otherwiſe ordained thereby, muſt be on the like days, only lawborrows may be on ſix days, againſt ſuch as live on this ſide Dee, but on fifteen days beyond it; and ſicklike, all hornings againſt perſons without the kingdom, altho' the bond, or other ground upon which it is raiſed, bear ſix, ten, or fifteen days, muſt be on ſixty days, and execute at the croſs of Edinburgh, and pier and ſhore of Leith, and not at their dwelling-houſes, although they have ſuch within the country; and becauſe ſome hornings are ſignet *per decretum*, others *per actum*, and others *ex deliberatione Dominorum Concilii*, and others *per actum parliamenti*, on which alſo writers write letters, it is to be obſerved, that all hornings paſſed upon regiſtrate bonds, and decreets of the Lords or parliament, bearing days, as ten, ſix, or fifteen, or the like, are *per decretum*; but wanting days, are *ex deliberatione*, becauſe they paſs by way of bill, and hornings on all inferior decreets are *ex deliberatione*, ſeeing they paſs by bill, and acts as in aliments, *pendente lite* are *per actum*.

The

The debtors being lawfully charged to make payment, either perſonally or at their dwelling-places, being within the country, or at Edinburgh croſs, and pier of Leith, being outwith the ſame, ut ſupra; *and the days of the charge being elapſed, and no payment made, then the parties may be denounced, the horning and executions regiſtrate, and caption raiſed thereon, as follows,*

CAPTION.

GEORGE, &c. Foraſmuchas it is humbly meaned and ſhown to us, by W. G. aſſigney after-ſpecified, that where, upon the day of years, A. B. as principal, and C. D. as cautioner for him, were orderly denounced rebels, and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt them, at the inſtance of the ſaid complainer, for not-payment making to him of the ſum of Scots money of principal, money foreſaid of expences, and annualrents of the ſaid principal ſum, ſpecified and contained in a bond made and granted by the ſaid A. B as principal, and the ſaid C. D. as cautioner, conjunctly and ſeverally, to G. D. thereupon, of the date the day of years, regiſtrate in the books of Council and Seſſion, upon the day of years, and in an aſſignation of the ſame made by the ſaid G. D. to the ſaid complainer thereupon, dated the day of years. (W.) as the ſaid letters of horning and executions thereof duly execute, indorſed, and regiſtrate, conform to the act of parliament, ſhown to our Lords of Council and Seſſion, have teſtified, under the proceſs of the whilk horning, the ſaid principal and cautioner have continually lyen and abidden ſinceyne, and yet daily haunt, frequent, reſort, and openly repair to kirk, market, and other private and public places and companies within this realm, as if they were free perſons therein, and no ſuch proceſs of horning led and deduced againſt them in the ſaid matter, in high contempt of us, our authority and laws, and in evil example of others to commit the like in time coming, without remeid be provided thereto, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our lettets ſeen, ye paſs and in our name and authority command and charge the ſheriffs of the ſheriffdoms of the provoſts and baillies of the burrows of the ſtewarts of the ſtewartries, and bailies of the regalities of and all their deputes, and alſo meſſengers at arms, our ſheriffs in that part foreſaid, to paſs, ſearch, ſeek, take and apprehend the ſaid A. B. and C. D. rebels foreſaid, wherever they may or can be apprehended within the bounds of their offices and juriſdictions; and being apprehended therein, to keep, detain and with-hold them in ſure ward, firmance and captivity, within their tolbooths, and other their warding-places, therein to remain upon their own proper charges and expences, ay and while they have fulfilled and obeyed

the command and charge of our ſaid other letters of horning, and be orderly relaxed from the proceſs of horning therein contained; and for that effect, if need be that ye make ſteiked and lock-faſt houſes, gates and doors, open and patent, and uſe our keys thereto, within three days next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn, with certification to them, if they fail, our other letters will be direct, charging them thereto ſimpliciter, and if thir our letters be put to execution within the burgh of Edinburgh, that the concurrence of the magiſtates thereof be had and obtained thereto, according to juſtice, becauſe the Lords have ſeen the regiſtrate horning above-written, as ye will anſwer to us thereupon.

Ex deliberatione Dominorum Concilii.

A magiſtrate being charged by virtue of the foreſaid letters of caption, to apprehend the rebels, and refuſing or delaying to give obedience upon production of the caption, and meſſengers execution, the Lords will grant ſimple horning, or as ſome term them letters of

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SECOND CAPTION.

GEORGE, &c. Forasmuchas it is humbly meaned and ſhown to us, by W. G. aſſigney after-ſpecified, that where, upon the day of A. B. as principal, and C. D. his cautioner, were orderly denounced rebels (here take in the narrative of the preceding caption, till ye come to the letter (W.) and then ſay) as the ſaid letters of horning, and executions thereof, duly regiſtrate, conform to the act of parliament, in themſelves more fully is expreſſed; whereupon the ſaid complainer raiſed letters of caption, at his inſtance againſt the ſaid principal and cautioner, and by virtue thereof, cauſed I. H. meſſenger paſs upon the day of laſt by-paſt, and lawfully command and charge M. R. one of the bailies of the burgh of , within whoſe territory and juriſdiction the rebels were for the time, to paſs, ſearch, ſeek, take, and apprehend them; and being apprehended, to put, keep, detain, and with-hold them in ſure ward, firmance, and captivity within their tolbooth, and other their warding-places, therein to remain upon their own proper charges and expences, ay and while they fulfilled and obeyed the command and charge of the ſaid letters of horning, and were orderly freed and relaxed from the proceſs of horning, therein contained; and, for that effect, to make lock-faſt houſes, gates and doors, open and patent, and uſe our keys thereto, and that within the ſpace, and with certification, as is at length ſpecified, and contained in the ſaid letters of caption, as the ſamen and executions thereof, ſhown to the Lords of Council and Seſſion, have teſtified; nevertheleſs, the ſaid M. R. wrongouſly refuſes, poſtpones,

poſtpones, and defers to give obedience to the ſaid charge, without he, and the remanent magiſtrates of the ſaid burgh be further compelled; wherefore neceſſary it is, to the ſaid complainer, to have thir our letters direct at his inſtance, againſt them, in manner, and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid M. R. bailie of the ſaid burgh, and the provoſt, and remanent bailies of the ſame perſonally, or at their dwelling-places, and by open proclamation, at the market-croſs of the ſaid burgh, to paſs, ſearch, ſeek, take and apprehend the ſaid A. B. and C. D. rebels foreſaid, where-ever they may, or can be apprehended within the bounds of their offices and juriſdictions; and being apprehended therein, to put, keep, detain, and with-hold them in ſure ward, firmance and captivity, within their tolbooths and warding-places, therein to remain upon their own proper charges, and expences, ay and while they fulfil and obey the command, and charge of our ſaid other letters of horning, and be orderly freed and relaxed from the proceſs of horning therein contained; and, for that effect, if need be, to make ſteiked and lockfaſt houſes, gates and doors, open and patent, and uſe our keys thereto, within three days next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn; wherein, if they fail, the ſaid three days being firſt come and bygone, that incontinent thereafter ye denounce them our rebels, and put them to our horn, and eſcheat, and inbring all their moveable goods and gear to our uſe for their contemption; and alſo, that ye uſe the haill remanent order againſt them preſcribed by the act of parliament made thereanent; according to juſtice, becauſe the Lords have ſeen the caption formerly raiſed, execute as ye will anſwer to us.

Ex deliberatione D. C.

The magiſtrates, or any one of them, (which is ſufficient for the haill, being one incorporation) being charged by virtue of the foreſaid letters, and not giving obedience, may (after the days of the charge are elapſed), be denounced, regiſtrate at the horn, and caption raiſed againſt them, as follows,

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CAPTION *againſt the* MAGISTRATES.

GEORGE, &c. Forasmuchas it is humbly meaned and ſhown to us, by W. G. that, whereupon, the day of years, H. D. provoſt, M. R. P. D. and W. R. bailies of the burgh of were orderly denounced rebels, and put to the horn, by virtue of letters of horning raiſed, uſed, and execute againſt them at the inſtance of the ſaid complainer, for not paſſing, ſearching,

ſearching, ſeeking, taking and apprehending of A. B. and C. D. who were alſo upon the day of years denounced to the horn, by virtue of letters of horning, raiſed and execute againſt them at his inſtance, for not payment making to him of the ſum of money, as principal of expences, and annuals of the ſaid principal ſum, contained in a bond granted by the ſaid A. B. as principal, and C. D. as cautioner for him, conjunctly and ſeverally, to G. D. thereupon, of the date the day of years, regiſtrate in the books of council and ſeſſion, the day of years, and in an aſſignation made by the ſaid G. D. to the ſaid complainer thereupon, of the date the day of years; and the ſaid A. B. and C. D. being apprehended, for not putting, keeping, detaining and with-holding of them, in ſure ward, firmance and captivity, within the ſaid magiſtrates their tolbooth of the ſaid burgh of and others their warding-places, therein to remain upon their own proper charges and expences, ay and while the ſaid A. B. and C. D. rebels foreſaid, fulfilled and obeyed the command and charge of the foreſaid other letters of horning direct and execute againſt them, and were orderly freed and relaxed from the proceſs of horn therein contained; and for not making ſteiked and lockfaſt houſes, gates and doors, open and patent, and uſing our keys thereto, within the ſpace ſpecified in the ſaid letters of horning, as the ſamen and executions thereof, duly regiſtrate, conform to the act of parliament, ſhown to the Lords of Council and Seſſion, has teſtified, under the proceſs of the whilk horn, the ſaid provoſt and bailies have continually lyen, and abidden ſinceſyne, and yet daily haunt (here proſecute the reſt of an ordinary caption, without any alteration).

Nota, If the party pleaſe, he needs not be at the pains of horning or caption againſt the magiſtrates, in caſe the priſoner was offered to them; for he may purſue them for the debt, and the rebels being offered, and they refuſing, or accepting, and not incarcerating, or incarcerating and diſmiſſing without a charge to put at liberty, the magiſtrates will be liable: and the ſtile of this libel, ye will find amongſt the reſt of the ſummons: neither wants this matter its own difficulties in the deciſion, the magiſtrates oftimes cledding their negligence with one pretext or other, as may be read in Durie, and other practices, eſpecially in the purſuits againſt Elgin, Inverneſs and Forres.

The next thing to be conſidered, is, what if the debtors ſuſpend before any ſuch charge given to, or execution uſed againſt the magiſtrates; then there muſt be a bond of caution written, the tenor whereof follows,

BOND

BOND *of* CAUTION.

I I. B. of by thir preſents, bind and oblige me, my heirs and ſucceſſors, as cautioner, and ſecurity acted in the books of Council and Seſſion, for A. B. and C. D. that in caſe it be found by the Lords of Council and Seſſion, after diſcuſſing of the ſuſpenſion, to be raiſed by them in the matter under-written, that they are holden, and ought, and ſhould make payment to W. G. of the ſum of of principal, of expences and annuals of the ſaid principal ſum bygone, reſting, owing, unpaid, and yearly and termly in time coming, during the not-payment thereof (the terms of payment being firſt come and bygone,) ſpecified and contained in a bond alledged, made and granted by the ſaid A. B. as principal, and C. D. as cautioner for him, conjunctly and ſeverally, to G. D. thereupon, of the date the day of years, regiſtrate in the books of Council and Seſſion, the day of years, and in an aſſignation made by the ſaid G. D. to the ſaid W. G. of the ſamen, dated the day of years, that they ſhall do therein, according to the ſaid Lords their decreet and declarator to be given thereanent, and alſo ſhall make payment to the party charger of ſuch other ſums of money, as the ſaid Lords ſhall pleaſe modify, and twenty merks to his Majeſty's treaſury for their eſcheat goods, in caſe of wrongous ſuſpending; and that it be found, after diſcuſſing thereof, that they are orderly denounced rebels, and put to the horn for the cauſe foreſaid: and we the ſaid A. B. and C. D. by thir preſents, bind and oblige us, conjunctly and ſeverally, and our heirs and executors, to warrant, free, relieve, harmleſs and ſkaithleſs keep, our ſaid cautioner, and his foreſaids of his ſaid cautionry, and of all coſt, ſkaith, damage, intereſt, charges and expences, that they ſhall happen to ſuſtain or incur therethrough in time coming; and for the more ſecurity there be many bonds, but the manner only alters, and the ſtile is the ſame.

SUSPENSION.

GEORGE, &c. Foraſmuchas it is humbly meaned and ſhown to us, by A. B. of and C. D. of that where W. G. aſſigney after-ſpecified, has, upon his pretended manner, raiſed other letters, and therewith cauſed charge the ſaid complainers to make payment to him of the ſum of Scots money as principal, of expences, and annuals of the ſaid principal ſum bygone, reſting, owing, unpaid, and in time coming, during the not-payment thereof, ſpecified and contained in a bond alledged, made and granted by the

the ſaid A. B. as principal, and the ſaid C. D. as cautioner for him, conjunctly and ſeverally, to G. D. thereupon, of the date the day of years, regiſtrate in the books of Council and Seſſion, upon the day of years, and in an aſſignation made by the ſaid G. D. to the ſaid W. G. of the ſamen, dated the day of years, within a certain ſhort ſpace next after the charge, under the pain of rebellion, and putting of the ſaid complainers to the horn, and for alledged diſobedience thereof, has denounced (at leaſt intends to cauſe denounce them rebels, and put them to the horn, at leaſt to poind their goods therefor, (H.) moſt wrongouſly and unjuſtly, conſidering it is of verity, (here inſert the reaſons, as in the bill changing the firſt perſon into the third: thus we are moſt wrongouſly charged the complainers are moſt wrongouſly charged; and whereas the bill bears, preſent to ſhow, bears, the letters muſt bear, ſhown to the Lords of our Council and Seſſion, has teſtified, and thereafter ſay), and ſo the ſaid Lords may evidently perceive how wrongouſly and unjuſtly the ſaid complainers are charged in manner and to the effect foreſaid, by all law, equity and reaſon; nevertheleſs for obedience, they have inſtantly found ſufficient caution, acted in our books of Council and Seſſion, for payment to the ſaid charger, of the foreſaid ſums charged; for in caſe it be found that they ought to do the ſame, and for payment of ſuch other ſums, as the ſaid Lords ſhall pleaſe modify, in caſe of wrongous ſuſpending, and to our treaſury of twenty merks for their eſcheat goods; in caſe it be found that they are orderly denounced rebels, and put to the horn for the cauſe foreſaid, and therefor, the foreſaid pretended letters, and charge, haill effect, and execution thereof, and proceſs of horning, poinding, caption, and others therein contained, and to follow thereupon, ought and ſhould be *ſimpliciter* ſuſpended upon the ſaid complainers, and they relaxed from the horn, (K.) for the reaſons and cauſes foreſaid, and others to be proponed at the diſcuſſing hereof, as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn and charge the ſaid W. G. perſonally, or at his dwelling-place, to compear before our ſaid Lords of Council and Seſſion, at Edinburgh, or where it ſhall happen them to be for the time, the day of (which is the day on the back of the bill) in the hour of cauſe, with continuation of days, bringing with him the foreſaid pretended regiſtrate obligation, aſſignation made to him thereof, letters of horning, poinding, caption, and others raiſed thereupon, with the executions thereof, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame, haill effect, and executions thereof, and proceſs of horning, poinding, and others therein contained, *ſimpliciter* ſuſpended upon the ſaid complainers, and them relaxed from the horn in time coming; for the reaſons and cauſes foreſaid, and others attour, we, and the ſaid Lords of our Council and Seſſion have ſuſpended, and hereby ſuſpend the foreſaid letters, and charge, haill effect and execution thereof, grounds whereupon the ſame proceeded upon the ſaid complainers; diſcharging hereby all officers, and meſſengers at arms, of all putting of the ſaids letters to any further execution againſt them, and of their offices in that part, in

in time coming, in the mean time while the day of (the back of the bill bears this date likewiſe) that the verity be known, (ſecluding appriſing of lands) and if the ſaid complainers be denounced rebels, and put to the horn for the cauſe foreſaid, that ye in our name and authority relax them therefrom, receive them to our peace again, and deliver to them, or any other in their name, the wand thereof, in the mean time while the ſaid day that the verity be known, as ſaid is, according to juſtice, becauſe I. B. is become caution for the complainers, to the effect above ſpecified, and for payment to our treaſurer of twenty merks for their eſcheat goods, as ye will anſwer.

Ex deliberatione Dominorum Concilii.

Nota, If the ſuſpenders be incarcerate, then there muſt be a charge to put at liberty included in both bill and letters as follows, viz. In the narrative at the letter (H.) add thir words, As alſo have incarcerated the ſaid complainers within the tolbooth of for the ſame; and at the letter (K.) before the (will add theſe words and alſo ſet at liberty and before according to juſtice, immediately add the clauſe following:

And ſicklike, that ye, in our name and authority, command and charge the provoſt, or any one of the bailies of the ſaid burgh of preſent or to come, perſonally, or at their dwelling-places, to ſet the ſaid A. B. and C. D. at liberty, forth of the ſaid tolbooth within the which they remain incarcerate, as ſaid is, (L.) and that within twenty-four hours next after they be charged by you thereto, under the pain of rebellion, and putting of them to the horn; wherein, if they fail, the ſaid twenty-four hours being firſt come and bygone, that incontinent thereafter ye denounce them our rebels, and put them to our horn, and eſcheat, and inbring all their moveable goods, and gear to our uſe for their contemption; and that ye uſe the haill remanent order againſt them, preſcribed by our act of parliament made thereanent.

There is another proviſion that uſed to be inſert in the deliverance of bills of ſuſpenſion, containing charge to put at liberty, (albeit now a days omitted) viz. provided the complainers be not arreſted or detained for any other cauſe. But if the ſamen ſhall hereafter be inſert, let it be placed in the charge to put at liberty at the letter, (L.) and as to the wards ſecluding; appriſing of lands, ſome ſuſpenſions have it, and others want it; ſo that the deliverance of the bill rules all.

But to proceed; this ſuſpenſion being diſcuſſed, and the letters found orderly proceeded, the next ſtep is to extract the decreet and bond of cautionry, and raiſe horning on both, againſt the ſuſpenders, and their cautioner, as follows,

HORNING

HORNING *and* POINDING.

GEORGE, &c. Forasmuchas it is humbly meaned and shown unto us, by W. G. that where A. B. of as principal, and C. D. of as cautioner for him, by their bond dated day of years, (for the causes therein specified) bound and obliged them, conjunctly and severally,

(here take in the narrative of the horning at the complainers instance, as assigney, till ye come to the letter P. (and then say) Whereupon the said complainer having raised letters of horning at his instance, against the said principal and cautioner; and by virtue thereof, having caused charge them, conjunctly and severally, to make payment to him of the foresaid sums contained in the said bond, within a certain short space next after the charge, under the pain of rebellion, and putting of them to our horn; they for eschewing the danger thereof, meaned themselves to the Lords of our Council and Session, and upon certain frivolous reasons, and by finding of I. B. cautioner therein in manner under-written, obtained suspension in the said matter, which being oft and divers times called in presence of the said Lords; and last of all, upon the day of years, they, by their decreet of suspension, then given and pronounced by them in the said matter (for the causes therein specified) found the foresaid letters and charges raised, used and execute, at the instance of the said complainer, against the said A. B. and C. D. principal and cautioner foresaid, orderly proceeded, and ordained them to take effect, and to be put to further execution, ay and while they made payment to him of the foresaid sums of money, principal, expences, and annualrents respective above-specified, contained in the said bond, conform to the tenor thereof, and assignation made to him of the same in all points; likeas, the said I. B. the time of the obtaining of the foresaid suspension, by his bond and act of caution, of the date the day of years, bonnd and obliged him, his heirs and executors, as cautioner, and security acted in our books of Council and Session for the said A. B. and C. D. that in case it were found by our Lords of Council and Session, after discussing of the foresaid suspension, that they are liable, and ought, and should make payment to the said complainer of the said sums of money, that they should do therein according to the said Lords their decreet and declarator to be given thereanent, and shall make payment to him of such other sums of money, as the said Lords should please modify, in case of wrongous suspending, as the said decreet of the date foresaid, and act of caution *respective*, insert and registrate in our said books of Council and Session, and our said Lords their decreet interponed thereto, upon the day of years, ordaining letters and executorials to be direct thereupon, in manner under-written, shown to the said Lords have testified. (Q.) And albeit it be of verity, that the said complainer has oft, and divers times, desired and required the said principal, and cautioner in the foresaid bond, and the said I. B. cautioner in the foresaid suspension, to have made payment to him of the foresaid sums of money, principal, annualrents, and expences respective,

tive above-ſpecified, nevertheleſs they wrongouſly refuſed, and as yet refuſe, poſtpone, and defer to do the ſame without they be compelled, as is alledged; our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and, in our name and authority, command and charge the ſaid A. B. and C. D. principal and cautioner in the ſaid bond, and the ſaid I. B. cautioner in the ſaid ſuſpenſion, conjunctly and ſeverally, perſonally, or at their dwelling-places, to make payment to the ſaid complainer, as aſſigney foreſaid, of the ſaid ſum of money foreſaid of principal, of expences, and annuals of the ſaid principal ſum of all years and terms bygone, reſting, owing, unpaid, and ſicklike yearly and termly, in time coming, during the not-payment, (the terms of payment of the ſame being firſt come and bygone), after the form and tenor of the ſaid obligation, decreet interponed thereto, aſſignation above-ſpecified, made to the ſaid complainer thereof, decreet of ſuſpenſion, act of caution foreſaid, and decreet interponed to the ſame in all points, within days next after they be charged by you thereto, under the pain of rebellion here follow out the concluſion of the horning and poinding at the ſame complainer's inſtance, againſt the principal and cautioner, till ye come to after the form and tenor in the poinding, and then ſay, after the form and tenor of the ſaid bond, decreet interponed thereto, aſſignation, decreet of ſuſpenſion, act of caution, and decreet interponed to the ſame in all points, according to juſtice, becauſe here take in the becauſe, as on the back of the bill as ye will anſwer------

Ex deliberatione Dominorum Concilii.

But a queſtion may ariſe, in writing this horning, viz. *The bond bears letters to paſs on ſix or ten days, probably, and the act of caution only on fifteen days, or in form as effeirs, (as uſually they do) which is equivalent, upon how many days then ſhall they be charged? It is anſwered, The days would be diſtinguiſhed, or all of them charged on the longeſt day; for albeit a party cannot be charged on fewer days than condeſcended to, yet upon more he may, there being no prejudice but a favour indulged; and withal, it would be adverted to, that albeit this horning bears the bond and aſſignation to be produced, as the ground thereof, as well as the decreet and act of caution, yet the laſt two (if the other two be not extant to produce) are ſufficient, and in lieu of ſhown to the Lords, has teſtified, it would be ſaid at more length proports, I mean as to the bond and aſſignation when not produced as ſaid is.*

Nota, Upon this horning, caption, and all other legal diligence may be raiſed againſt the cautioner in the ſuſpenſion, as well as againſt the other principal and cautioner, on the bond and decreet of ſuſpenſion, *mutatis mutandis*; and if the creditor fear the debtors may ſell their eſtates to his prejudice, he may raiſe inhibition againſt all of them, as follows.

LETTERS of INHIBITION.

GEORGE, &c. Forasmuchas it is humbly meaned and shown to us, by W. G. assigney after-specified, that where here deduce the narrative of the horning immediately preceding, till ye come to the letter (Q.) and then say, and the said A. B. C. D. and I. B. knowing perfectly that the said complainer is to suit all manner of execution, both personal and real against them, for payment of the foresaid sums contained in the said bond, decreet, and act of caution; they, in manifest defraud, hurt and prejudice of him thereanent, intend (as he is informed) to sell, annalzie, wadset, dispone, resign, renounce, dilapidate, and put away, all and sundry their lands, heritages, annualrents, liferents, reversions, mills, woods, fishings, tacks, steadings, rooms, possessions, and others whatsomever pertaining and belonging to them, and to make private and public alienations, dispositions, wadsets, assignations, resignations, renunciations, and other rights and securities thereof, and to contract and take on debts, and to grant bonds, and other rights and securities therefor, without remeid be provided thereto, as is alledged: Our will is herefore, and we charge you strictly, and command, that incontinent thir our letters seen, ye pass, and in our authority, inhibit and discharge the said A. B. C. D. and I. B. personally, or at their dwelling-places, that they on no ways sell, annalzie, wadset, dispone, resign, renounce, dilapidate, nor put away any of their lands, heritages, annualrents, liferents, reversions, mills, woods, fishings, tacks, steadings, rooms, possessions, nor others pertaining and belonging to them, nor make no private nor public alienations, dispositions, wadsets, assignations, resignations, renunciations, nor other rights nor securities thereof, to no person or persons, nor contract, nor take on debts, nor give bond or other right or security therefor, nor do any other fact or deed, directly nor indirectly, in any sort, whereby the right of the said lands or others foresaid pertaining to them, may be evicted or appriſed from them, in defraud, hurt, or prejudice of the said complainer, anent the implement and fulfilling to him of the foresaid bond, decreet, and act of caution, and payment making to him of the foresaid sums therein contained; and also, that ye in our name and authority foresaid, inhibit and discharge all and sundry our lieges, and others whom it effeirs, by open proclamation at the market cross of and other places needful, that they in no ways presume, nor take upon hand, under whatsoever colour or pretext, to buy, block, take, or receive in wadset mail, mail-free, or otherwise from the forenamed persons any of their lands, heritages, rooms, possessions, or others foresaid pertaining to them, nor receive from them any alienations, dispositions, wadsets, or other rights or securities thereof, nor lend to them any sums of money, nor receive any bond or other right or security therefor, in defraud, or to the prejudice of the said complainer, as said is; certifying them that do in the contrary, that the same shall be null, and of none avail, force, strength,

ſtrength, nor effect, with all that has followed or may follow thereupon, and make no faith in judgement, nor outwith the ſame in time coming; and that ye cauſe regiſtrate thir our letters, with the executions thereof, within forty days, conform to act of parliament, according to juſtice, becauſe here inſert the ſecond becauſe on the back of the bill as ye will anſwer

Ex deliberatione Dominorum Concilii.

There may be inhibition had upon any ground obligatory, yea upon a depending action, and yet there is but one inhibition here inſert; and the reaſon is, becauſe in all inhibitions nothing alters but the narrative, and the ſtile after the will is ſtill the ſame, except in inhibitions againſt a wife, inhibitions againſt minors, (in which caſe the tutors and curators muſt be alſo inhibit at the croſs, not to ſell the minors lands) inhibitions of tithes, and inhibition againſt a perſon out of the country, which muſt be execute at the croſs of Edinburgh, and pier of Leith; as alſo at the croſs of the juriſdiction where they ly (without which it is ineffectual) and a pattern or ſtile of which inhibition ye will find page among the other common letters apart, they being extraneous to the method now propoſed.

So much as to perſonal Execution.

The next thing propoſed is Real Execution.

And before proſecuting thereof, two things would be adverted to; *firſt*, That both debtors and creditors (or thoſe having right from them, and whoſe right is intimate in the conſtituent's own lifetime) be in life: *Secondly*, That the debtors be really infeft in the lands and others to be appriſed, and their ſeiſins duly regiſtrate, conform to act of parliament. And ſo concluding that both parties are in life, and that the debtors are infeft.

The LETTERS *of* APPRISING *follow,*

GEORGE, &c. Foraſmuchas it is humbly meaned and ſhown to us, by W. G. aſſigney after-ſpecified, that where A. B. as principal, and C. D. as cautioner for him, by their bond, dated the day of years, hereto infert the narrative of the preceding horning, until ye come to the letter (Q.) only whereas the horning ſays, (as to the ground thereof ſhown to the Lords, has teſtified; ye muſt ſay here, at more length proports, becauſe no horning is granted without it be inſtructed: but there is no neceſſity for inſtructing any bill of appriſing, till ye come to the leading); and albeit it be of verity, that

that the foreſaid ſums of money reſpective above-ſpecified, be as yet truly addebted, and reſting, owing, unpaid, and that the ſaid complainer has oft and divers times deſired and required the ſaid principal and cautioners to have made payment to him, as aſſigney foreſaid, of the ſamen, nevertheleſs, they wrongouſly refuſed, and as yet refuſe, poſtpone, and defer to do the ſame without they be compelled, wherefore neceſſary it is to him to have letters of poinding and appriſing direct at his inſtance againſt them, in manner, and to the effect after-ſpecified, containing diſpenſation anent the place, and time of vacance in manner after-mentioned; and becauſe divers and ſundry queſtions, debates and controverſies may ariſe, (R.) the time of the leading and deducing of the ſaid appriſing, which can hardly be diſcuſſed either upon the ground of the lands, and others to be appriſed with the pertinents, or within the tolbooth of the head-burgh of the ſheriffdom, regality, or other juriſdiction, within which the ſame ly; that the ſame be led and deduced within the tolbooth of Edinburgh, as the place moſt fit and convenient therefor, (where all parties having, or pretending to have intereſt, may be heard, to oppone and object, and wherein if any doubt, difficulty, or queſtion ſhall happen to ariſe, the ſame may be beſt reſolved by advice of men of law and judgement, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and, in our name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind, and diſtrenzie the ſaid A. B. C. D. and I. B. principal and cautioners foreſaid, their readieſt goods, gear, corns, cattle, inſight pleniſhing, horſe, nolt, ſheep, debts, ſums of money, and other moveable goods and gear whatſomever, poindable and diſtrenzieable, pertaining and belonging to them, where-ever the ſame may or can be apprehended, make penny thereof; and failing of their moveable goods and gear poindable, that ye appriſe all and ſundry their lands, heritages, annualrents, liferents, reverſions, tacks, ſteadings, rooms, poſſeſſions, mills, woods, fiſhings, houſes, biggings, yards, orchards, and others pertaining and belonging to them, where-ever the ſame ly, or be within this realm, for payment and ſatisfaction to the ſaid complainer of the ſums of money principal, annualrents, and expences reſpective above-ſpecified, contained in the ſaid bonds and decreet of ſuſpenſion, after the forms and tenors thereof, aſſignation and act of caution above-mentioned, and decreet interponed to the ſaid bond and act of caution in all points, extending the ſaid ſums at the term after-ſpecified to the ſum after-mentioned, and that as for the principal, and of the ſheriff-fee, effeiring thereto, extending in manner under-written, *ſalvo juſto calculo*, in both the ſaid ſums; and for that effect, that ye lawfully denounce the foreſaid lands, and others to be appriſed, with the pertinents openly upon the ground thereof, and by open proclamation at the market croſs of and other places needful, together with the ground-right and property thereof, and all other right and title whatſoever, competent, or that may be competent to the ſaid principal and cautioners of the ſame, with the teind-ſheaves, and other teinds both great and ſmall, as well parſonage as vicarage thereof, together with all bonds, obligations, (F) contracts, diſpoſitions,

diſpoſitions, charters, infeftments, procuratories and inſtruments of reſignation, precepts, and inſtruments of ſeiſin, and other writs, evidents, rights, titles and ſecurities whatſoever, made and granted by whatſoever perſon or perſons to the ſaid principal and cautioners, or one or other of them, or to their predeceſſors, cedents and authors, or others to their uſe and behoof, or that may be introduced or conceived in their favour, or any ways competent, (W) or that may be competent to them, or either of them, or to their heirs or aſſigneys, of, upon, or concerning the ſaid lands, teinds, and others foreſaid, or any part or portion thereof, for whatſoever ſpace or ſpaces, as yet to run therein contained, together alſo with all and ſundry reverſions, (R) as well legal as conventional, legal of legal, and legal upon legal, bonds, promiſes and conditions of reverſions, if any be made, given, granted, promitted, provided, or of the law competent to be made, and granted by whatſoever perſon or perſons to the ſaid principal and cautioner, or one or other of them, or their predeceſſors and authors, heirs or aſſigneys, or any other perſon or perſons to their uſe and behoof, for redemption, looſing, and outquitting from whatſoever perſon or perſons of the ſaid lands, teinds, and others to be appriſed, with the pertinents, or any part or portion thereof, or of any annualrent or other duty to be uplifted forth of the ſame, (G) to be appriſed before you and your collegues, one or more, conjunctly and ſeverally, within the new ſeſſion-houſe of Edinburgh, upon the day of or any other day or days to be aſſigned and appointed by you for that effect, in the hour of cauſe; notwithſtanding of the feriot and cloſe time of vacance, if any ſhall happen to be the time of the leading and deducing of the ſaid appriſing whereanent, and with all that may follow thereupon, or that can be objected againſt the ſame, we, and the ſaid Lords in our name, diſpenſe forever, and admit and declare the ſame to be as valid, effectual, and ſufficient, as if the ſame were led and deduced upon the ground of the lands, and others to be appriſed, with the pertinents, or within the tolbooth of the head-burgh of the ſheriffdom, regality, or other juriſdiction, within which the ſame ly, in any lawful time of ſeſſion, and that in payment and ſatisfaction to the ſaid complainer of the ſums of money, principal, annualrents, and expences reſpective above ſpecified, extending at the term of to the ſum of and that as for the principal, and of the ſheriff-fee effeiring thereto, due to you and your collegues for execution of your office in the premiſſes, conform to the act of parliament, extending to the ſum of money foreſaid, *ſalvo juſto calculo* in both the ſaid ſums; and alſo, that ye lawfully warn the ſaid principal and cautioners, (I.) perſonally, or at their dwelling places, and alſo them and all others having or pretending to have intereſt in the ſaid matter, openly upon the ground of the ſaid lands, and others to be appriſed with the pertinents, and by open proclamation at the market-croſs of to compear before you and your collegues, one or more conjunctly and ſeverally, the ſaid day and place, in the hour of cauſe, by diſpenſation above-written, to hear and ſee the ſaid appriſing duly, lawfully, and orderly led and deduced, and the perſons and members of inqueſt, received, ſworn, and admitted

to

to paſs thereupon, and to oppone and object thereagainſt, as accords of the law, and to make intimation and certification to them as effeirs; and likewiſe that ye fence, hold, and continue courts of appriſing, one or more as need be in the ſaid matter, and that ye elect and create clerks, ſerjeants, officers, dempſters, and all other members of courts needful for leading and deducing of the ſaid appriſing; and that ye proceed, inſiſt, and adminiſter juſtice therein, until the final end and deciſion thereof; and that ye ſummon a ſufficient number of perſons of inqueſt to paſs thereupon, moſt worthy, leaſt ſuſpected, and who beſt know the verity of the ſaid matter, every perſon under the pain of forty pound Scots money, according to juſtice, as ye will anſwer to us thereupon.

Ex deliberatione D. C.

Nota, If any of the perſons be out of the kingdom, or all of them, then ſuch as are out of the ſame, muſt be cited at Edinburgh croſs, and pier of Leith, and the bill and letters muſt bear an expreſs warrant, *ad hunc effectum*, at the letter (I) and in theſe words, viz. and alſo, that ye lawfully warn the ſaid principal and cautioners, in manner following, viz. ſo many of them as be within this realm the time of the ſaid warning perſonally, or at their dwelling-places on fifteen days, and ſo many of them as be then forth thereof, by open proclamation at the market-croſs of Edinburgh, pier, and ſhore of Leith on ſixty days; and alſo them, and all others having or pretending to have intereſt as in the former ſtile; and becauſe divers meſſengers are informal in executing the letters aforeſaid, I have ſet down an information here to prevent that inconvenience.

Information for the meſſenger executor of the ſaid letters, as to the order and method, ſtep by ſtep, of his procedure.

IMprim. The meſſenger muſt go to the parties dwelling-houſes, where they and their families reſide, and have their actual reſidence, and there ſearch for moveable goods, before witneſſes, where, (if there be not as much as will ſatisfy the ſums) Then,

2. The meſſenger muſt go to the ground of their ſeveral lands, and within the houſes thereupon, ſo far as he can get entry and acceſs, and there alſo ſearch, *ut ſupra*, and finding no moveable goods as ſaid is, Then,

3. The meſſenger muſt denounce the lands and others to be appriſed upon the ground thereof, and likewiſe warn the parties, and alſo all others having or pretending to have intereſt in the ſame, before witneſſes.

4. The meſſenger muſt go to the market-croſs of the head-burgh of the ſhire, as alſo the head-burgh of the regality or ſtewartry within which the ſaid lands ly, and there denounce the ſame, and warn the parties, and all others having intereſt therein before witneſſes.

5. The meſſenger muſt warn the parties either perſonally, or at their dwelling-

ing-places for the time, and leave ſchedules both on the ground, and at the croſſes, and deliver another to them, or leave the ſame in the lock-hole of the moſt patent gate and door of their dwelling-houſes, (in caſe they be not warned perſonally as ſaid is) before witneſſes.

6. The meſſenger would advert that there be fifteen free days from the day of warning the party to the day of leading the appriſing, and that the day of the appriſing fall neither on Sunday nor Monday (albeit Monday be lawful, becauſe of the diſpenſation contained in the letters), and laſtly, that ſearching precede denunciation, and that both ſearching and denunciation precede warning of the party; for, before ſearching, who knows but there may be as many moveables as may ſatisfy the ſums, which if, then there is no reaſon for denunciation; as alſo, before denunciation, there is no reaſon the party ſhould be warned; for otherways, how can that part of the execution be judged real, viz. that a copy was delivered to the party, or left at the houſe, containing the haill effect, form, and tenor of execution, ſearching, ſeeking, denunciation, and warning, and day aſſigned for the appriſing; ſo that, in effect, the reſult of all is, that ſearching is firſt, denunciation in the ſecond place, and warning of the party is and ought to be the laſt act of the meſſenger's diligence.

7. The meſſenger muſt ſend an exact and perfect note of all the lands and others to be appriſed, and what day he ſearched, what day he denounced on the ground, what day at the croſſes, and what day he warned the parties, and whether perſonally, or at their dwelling-places, and before what witneſſes, and of the day of the appriſing, and of what ſuperior the lands hold, and how they ly.

8. The meſſenger muſt ſend blank ſheets ſubſcribed and ſtamped to fill up the executions.

9. The meſſenger muſt ſend a warrant to a meſſenger to ſit as judge in the appriſing, but if this be wanting, it may be inſert in the execution of appriſing before, and the more verification-----

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SCHEDULE of APPRISING.

I I. H. meſſenger, by virtue of the letters of poinding and appriſing, raiſed at the inſtance of W. G. of aſſigney, therein ſpecified againſt you, A. B. C. D. and I. B. (6) paſſed to, and within your dwelling houſes of where ye, with your families, have your preſent actual reſidence and manſion, and thereafter to the ground of the lands and others after denounced, with the pertinents, lying and pertaining in manner after expreſſed, and there, as well at and upon the ground of the ſaid lands, and others above and after-ſpecified, with the pertinents, as within your ſaid dwelling-houſes and remanent houſes and biggings being thereupon, ſo far as I could get entry or acceſs, I diligently ſearched and ſought the moveable

moveable goods and gear whatſomever, poindable and diſtrenzieable, pertaining and belonging to you, to have pointed and appriſed the ſame from you, at the inſtance of the ſaid W. G. for payment and ſatisfaction to him of the ſums of money principal, annualrents, expences and ſheriff-fee ſpecified, and contained in the ſaid letters of poinding and appriſing, extending in manner therein-expreſſed, but I could find none, neither there, nor in any other part or place elſewhere, whereof I could get any knowledge or intelligence after I diligently ſearched and ſought for the ſame in manner foreſaid; therefore, I, upon the ground of the lands, and others after mentioned; and alſo, by open proclamation at the market croſs of head-burgh of the ſheriffdom, within the which the ſame lyes, by virtue of my office, conform to act of parliament, and in his majeſty's name and authority, duly, lawfully and orderly denounced all and haill the lands of lying within and pertaining heritably to you the ſaid A. B. and all and haill the lands of lying within and pertaining heritably to you the ſaid C. D. and all and haill the lands of pertaining heritably to you the ſaid I. B. with the ground, right, and property thereof, and all other right and title competent, or that may be competent to you of the ſame with the teind-ſheaves, and other teinds both great and ſmall, as well parſonage, as vicarage of the ſaid lands, and others foreſaid, and all tacks and rights thereof, together with all bonds, obligations, contracts, diſpoſitions, as in the letters of appriſing, at the letter (F) together alſo with all and ſundry reverſions. (here inſert as in the letters of appriſing, (R) and then ſay) to be appriſed before me, or any other meſſenger at arms, and our collegues, one or more, conjunctly and ſeverally, within the new ſeſſion houſe of Edinburgh, upon the day of in the hour of cauſe, by virtue of the diſpenſation contained in the ſaid letters, for payment to the ſaid W. G. of the ſums of money principal, annualrents, expences, and ſheriff-fee therein mentioned, extending in manner therein expreſſed, *ſalvo juſto calculo*; likeas, I lawfully warn you, and all others having or pretending to have intereſt in the ſaid matter, to compear before me and my collegues the ſaid day and place, in the hour of cauſe, by virtue of the diſpenſation foreſaid, to hear and ſee the ſaid appriſing, duly, lawfully, and orderly led and deduced, and the perſons and members of inqueſt, received, ſworn, and admitted to paſs thereupon, and to oppone and object there againſt, as accords, and I make intimation and certification to you, as effeirs; and alſo to hear and ſee clerks, and other members of court, elected and choſen, and juſtice adminiſtrate therein, until the final end and deciſion thereof, conform to the principal letters of poinding and appriſing direct to me thereanent, which are of the date, at Edinburgh the day of and of his Majeſty's reign the year 177----

Ex deliberatione D. C.

If the party be not preſent at the leading and deducing of the appriſing, then he muſt grant procuratory, as follows,

PROCURATORY.

PROCURATORY.

BE it known to all men by thir preſent letters, me W. G. of Foraſmuchas A. B. of C. D. of and I. B. of their lands and eſtates are denounced to be appriſed at my inſtance, within the new ſeſſion-houſe of Edinburgh, upon the day of for payment to me of the ſums of money after-ſpecified; and ſeeing my other urgent and lawful affairs do ſo divert me, as that I cannot be conveniently preſent the ſaid day and place, therefore, I, by thir preſents, make, conſtitute, and ordain A. M. writer in Edinburgh, and conjunctly and ſeverally, my very lawful, and undoubted procurators, to the effect after ſpecified, with full power to them, conjunctly and ſeverally, as ſaid is, to compear for me, in my name, and upon my behalf, within the new ſeſſion houſe of Edinburgh the ſaid day, in the hour of cauſe, and there produce my claim and inſtructions thereof, in preſence of the judge in the ſaid appriſing, members and perſons of inqueſt, and to obtain the ſaid appriſing lawfully led and deduced, and the lands and others therein-mentioned, duly appriſed at my inſtance, and to accept and receive the ſums therein-ſpecified, in caſe the ſame be really offered, and to grant diſcharges on the ſame, acts, inſtruments, and documents, one or more, as need be in the ſaid matter, to aſk, lift and raiſe, and to do all other things thereanent, ſicklike, in the ſame manner, and as freely in all reſpects, as I might do therein myſelf, if I were perſonally preſent, promiſing to hold firm and ſtable Conſenting thir preſents be inſert and regiſtrate in the books of council and ſeſſion, or others competent, therein to remain *ad futuram rei memoriam*, and to that effect; conſtitutes my procurators In witneſs whereof, I have ſubſcribed thir preſents, (written by K. D. of) with my hand at the day of years, before thir witneſſes,

EXECUTIONS of APPRISING.

UPON the days of *reſpective*, the year of God years, I J. H. meſſenger, one of the ſheriffs in that part within, lawfully conſtitute, by virtue, and at command of the within-written letters of poinding and appriſing, purchaſed and raiſed at the inſtance of the within-named W. G. of complainer within-ſpecified, againſt the within-named A. B. C. D. and I. B. principal, and cautioners within-mentioned, paſſed to, and within the ſaid A. B. his dwelling-houſe of and to and within the ſaid C. D. his dwelling-houſe of and the ſaid I. B. his dwelling-houſe of

where they, with their families, have their preſent actual reſidence and manſion; and thereafter, the ſame days I paſſed to the ground of (K), the lands and others after ſpecified, with the pertinents, *viz.* of all and haill the lands of lying within the pariſh of and ſheriffdom of and pertaining heritably to the ſaid A. B. and of all and haill the lands of lying within the pariſh of and ſheriffdom of and pertaining heritably to the ſaid C. D. and of all and haill the lands of lying within the pariſh of and ſheriffdom of and pertaining heritably to the ſaid I. B. and to and within the haill manor-places, houſes, biggings, and remanent office-houſes being thereupon, ſo far as I could get entry or acceſs, and there, as well at and upon the ground of the ſaid lands, and others foreſaid, as within the ſaid three dwelling-houſes, and remanent houſes and biggings being thereupon, ſo far as I could get entry or acceſs, as ſaid is, I, in his Majeſty's name and authority, diligently ſearched and ſought the moveable goods and gear whatſoever, poindable and diſtrenzieable, pertaining and belonging to the ſaid A. B. C. D. and I. B. to have pointed and appriſed the ſame from them, at the inſtance of the ſaid complainer, for payment and ſatisfaction to him of the ſums of money, principal, annualrents, expences, and ſheriff-fee *reſpective* within ſpecified, extending in manner within mentioned, *ſalvo juſto calculo*; but I could not find nor apprehend any there, nor in no other part nor place elſewhere, whereof I could get any knowledge or intelligence, after I had diligently ſearched and ſought for the ſame in manner foreſaid: Therefore I, upon the ground of the ſaid lands, and others after denounced, with the pertinents upon the ſeveral days above-written, (at the which ſearching and ſeeking was made by me in manner foreſaid), and alſo at the market croſſes of head-burghs of the ſheriffdoms of aforeſaid, within the which the ſame ly (whereunto I paſſed upon the days of the ſaid months of and year of God above ſpecified), by open proclamation, after three ſeveral oyeſſes, and public reading of the ſaid letters of poinding and appriſing thereat, and thereupon *reſpective*, ſeverally and ſucceſſively after others, by virtue of my office, conform to the act of parliament, and in name and authority within mentioned, duly, lawfully, and orderly denounced, all and haill, and all and ſundry the foreſaid towns and lands of (here inſert the lands denounced to the length, and if bounded, let it be inſert here; and then ſay), lying and pertaining as ſaid is, with the ground, right and property thereof, and all other right and title whatſomever, competent or that may be competent to them of the ſame, with the teind-ſheaves, and other tiends both great and ſmall, as well parſonage as vicarage of the ſaid lands, and others foreſaid, and all tacks and rights thereof, together with all bonds, obligations, (here take in all the will of the preceding letters of appriſing, from the letter F. till ye come to the letter G. and then ſay), to be appriſed before me, or any other meſſenger at arms, judge in the ſaid appriſing, and our collegues one or more, conjunctly

conjunctly and ſeverally, within the new ſeſſion houſe of Edinburgh, upon the day of in the hour of cauſe, by virtue of the diſpenſation within ſpecified, for payment and ſatisfaction to the ſaid complainer of the ſums of money, principal, annualrents, expences, and ſheriff-fee within mentioned, extending at the term within written, in manner within expreſſed, *ſalvo juſto calculo*; and alſo, I lawfully warned the ſaid A. B. C. D. and I. B. and all others having or pretending to have intereſt in the ſaid appriſing, openly upon the ground of the ſaid lands and others above denounced, with the pertinents pertaining to the ſaid A. B. upon the ſaid day of and of the ſaid lands pertaining to the ſaid C. D. upon the ſaid day of and of the ſaid lands pertaining to the ſaid I. B. upon the day of and alſo by open proclamation at the market croſs of upon the ſaid day of and upon the ſaid day of at the ſaid market-croſs of and laſtly, I lawfully warned the ſaid A. B. C. D. and I. B. perſonally apprehended, upon the ſaid day of and year of God foreſaid, to compear before me, or any other meſſenger at arms, judge in the ſaid appriſing, and our collegues, one or more, conjunctly and ſeverally, the ſaid day and place, in the hour of cauſe, by virtue of the diſpenſation above ſpecified, to hear and ſee the ſaid appriſing duly, lawfully, and orderly led and deduced, and the perſons and members of inqueſt received, ſworn, and admitted to paſs thereupon, and to oppone and object thereagainſt, as accords of the law; and I made intimation and certification to them as effeirs: This I did after the form and tenor of the ſaid within written letters of poinding and appriſing in all points, whereof I affixed and left a juſt and authentic copy, with a ticket or ſchedule written on the back thereof, containing the haill effect, form and tenor of my ſaid execution, ſearching, ſeeking, denunciation, warning and indorſation foreſaid, and day and place above-ſpecified, appointed by me for leading and deducing of the ſaid appriſing upon the ground of the ſaid ſeveral lands and others above denounced with the pertinents, and at the ſaid reſpective market-croſſes, and delivered another to each of the ſaid three parties, upon the ſeveral days above mentioned (at the whilk ſearching, ſeeking, denunciation and warning was made by me in manner foreſaid) that none may pretend ignorance, before thir witneſſes *reſpective*, viz. To my ſaid ſearching and ſeeking within the ſaid A. B. his dwelling-houſe of and to my ſearching, ſeeking, denunciation and warning on the ground of the ſaid lands, and others foreſaid pertaining to him W. H. in A. F. and M. G. my ſervitors, and to my ſaid ſearching and ſeeking within the ſaid C. D. his dwelling-houſe of and to my ſaid ſearching, ſeeking, denunciation, and warning upon the ground of the lands, and others foreſaid pertaining to him T. G. and W. P. in and the ſaid M. G. my ſervitor, and to my ſaid ſearching and ſeeking within the ſaid I. B. his dwelling-houſe of and ſearching, ſeeking, denunciation and warning on the ground of the ſaid lands and others pertaining to him P W. in

W. in A. H. and my ſaid ſervitor, and to my ſaid denunciation and warning at the ſaid market croſſes, P. W. A. H. and my ſaid ſervitor, and to my ſaid warning of the ſaid A. B. perſonally apprehended, the ſaid W. H. A. F. and my ſaid ſervitor, and to my ſaid warning of the ſaid C. D. perſonally, the ſaid T. G. W. P. and my ſaid ſervitor, and to my ſaid warning of the ſaid I. B. perſonally, the ſaid P. W. A. H. and my ſaid ſervitor, and for the more verification of this my execution, ſubſcribed with my hand, my ſtamp is affixed.

If the meſſenger forget to ſend a warrant to another meſſenger to ſit judge for him, it may be ſupplied by inſerting the words following before ---- and for the more verification------

And becauſe I cannot conveniently be preſent to ſit judge in the ſaid appriſing, the ſaid day and place, by reaſon of the remoteneſs of place, and my other important affairs, therefore I hereby authoriſe and impower meſſenger, to ſit as judge in the ſaid appriſing, the ſaid day and place, and to elect and appoint the members of the firſt and ſecond courts, and take them ſworn de fideli adminiſtratione, *and to do all other things in the adminiſtration of that office as I might do therein myſelf if I were preſent.*

CLAIM of APPRISING.

GOOD men of inqueſt, unto your wiſdoms, humbly ſheweth W. G. that where A. B. as principal, and C. D. as cautioner for him, by their bond, dated the day of here inſert the narrative of the letters of appriſing, until ye come to the letter Q. (and then ſay,) whereupon I having meaned myſelf to the Lords of Council and Seſſion, I obtained letters of poinding and appriſing at my inſtance againſt the ſaid principal and cautioners, and by virtue thereof cauſed I. H. meſſenger, one of the ſheriffs in that part, thereby lawfully conſtitute, paſs upon the days of years, to and within the ſaid A. B. his dwelling-houſe of and the ſaid C. D. his dwelling-houſe of and the ſaid I. B. his dwelling-houſe of , where they, with their families, had their actual reſidence and manſion for the time, and thereafter the ſame days he paſſed to the ground of the lands, and others after-ſpecified, *viz.* here inſert the whole execution, only whereas the execution bears, I ſearched, I denounced in the firſt perſon, ye muſt here in the claim ſpeak of the meſſenger in the third perſon, becauſe the complainer

plainer ſpeaks in the claim, and not the meſſenger as alſo, whereas the execution bears to be appriſed within the tolbooth of Edinburgh the day of in the claim ye muſt ſay this preſent day and place, in the hour of cauſe, and when ye come to theſe words, —and for the more verification, leave of, and then ſay, as the ſaid letters of poinding and appriſing, and executions thereof, in themſelves more fully purport: Herefore I beſeech your wiſdoms, that ye would appriſe all and ſundry the foreſaid lands, and others above denounced, with the pertinents, lying and pertaining as ſaid is, from the ſaid A. B. C. D. and I. B. their heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, to and in favour of me my heirs and aſſignees, for payment and ſatisfaction to me of the ſums of money, principal, annualrents, and expences *reſpective* above ſpecified, extending, at the term of laſt, bypaſt to the ſum of and that as for the principal, and of the ſheriff-fee effeiring thereto, due to the ſaid meſſenger and his collegues for execution of their office in the premiſſes, conform to the act of parliament, extending to the ſum of *ſalvo juſto calculo*, in both the ſaid ſums, and that your wiſdoms would ordain me, my heirs and aſſignees, to be heritably infeſt and ſeiſed in all and ſundry the ſaid lands and others above denounced, with the pertinents, to be holden of the immediate lawful ſuperiors thereof, ſicklike, in the ſame manner, and as freely in all reſpects as the ſaid A. B. C. D. and I. B. and their predeceſſors and authors held, hold, or might have holden the ſame, at any time before the ſaid appriſing, after the form and tenor thereof, and act of parliament made anent appriſing of lands, and others, for payment of debts in all points; and this I deſire your wiſdoms to do under the moſt part of your ſeals as uſe is, and your wiſdoms anſwer.

The Verdict *of the* Inqueſt *is written on the end of the* Claim *in the words following,*

APUD *Edinburgum*, *die menſis anno* The which day, the haill perſons of inqueſt being all ſolemnly ſworn, received and admitted to paſs upon the ſaid appriſing, and they being forth of court, removed and re-entered therein again, having all heard, ſeen and conſidered the ſaid purſuer's claim, with the haill writs produced for inſtructing of the ſame, and being well and ripely adviſed therewith, all in one voice, but variance, by the mouth of M. T. G. of one of their number, and elected, nominate, and choſen by them chancellor of the ſaid inqueſt, appriſed and appriſes *affirmative*, conform to the ſaid claim and inſtructions thereof, the lands and others therein contained, from the ſaid A. B. C. D. and I. B. their heirs and ſucceſſors, and all others having or pretending to have intereſt in favour of the ſaid purſuer and his foreſaids, for payment to them of the ſaid ſums, and ordains them to be heritably infeft

infeft therein, to be holden in manner above-expreſſed, (none compearing to object in the contrary), whereupon A. M. writer in Edinburgh, as procurator for the purſuer, aſked and took inſtruments, and proteſted *contra omnes non comparantes*, and that ſilence may be enjoined to them for the future, which was admitted by the judge: This muſt be ſubſcribed by the chancellor.

Acts of Court.

EDINBURGH, the day of one thouſand ſeven hundred and ſeventy years, The which day compeared I. H. meſſenger, one of the ſheriffs in that part of the ſheriffdom of and judge in the appriſing under-written, ſpecially conſtitute, by virtue of the letters of poinding and appriſing, purchaſed and raiſed at the inſtance of W. G. of againſt A. B. C. D. and I. B. (H) containing diſpenſation anent the place and time of vacance, in manner therein expreſſed, and elected and choſen.

T. W. Inofficer.
W. M. Indempſter.
I. M. Inclerk.

For the firſt court of the ſaid appriſing, who being ſolemnly ſworn, made faith *de fideli adminiſtratione*, G. D. *notarius publicus aſſerit.*

And alſo elected and choſen, C. D. writer to his Majeſty's ſignet, notary-public in clerk.

A. M. meſſenger incollig.
I. D. indempſter.

For the ſecond court of the ſaid appriſing, who being alſo ſolemnly ſworn, made faith *de fideli adminiſtratione*, I. M. *notarius publicus aſſerit.*

After fencing of the which courts, compeared perſonally A. M. writer in Edinburgh, as procurator for the ſaid purſuer, conform to the procuratory granted to him for that effect, dated the day of years inſtant, and produced the purſuer's claim, with the inſtructions thereof, and thereupon deſired proceſs, and that the matter might be referred to the knowledge of an inqueſt, and the ſaid A. B. C. D. and I. B. and all others having or pretending to have intereſt, being called, as uſe is, lawful time of day, bidden, and none compearing to object,

object, the judge referred the matter to the knowledge of the inqueſt following, moſt worthy, leaſt ſuſpect, and who beſt know the verity of the matter, being all lawfully warned of before, they are to ſay,

Aſſiſa.

M. writer in Edinburgh
R. K. writer there
T. M. writer there
R. L. writer there
N. H. writer there
A. B. writer there
W. M. of -----
I. H. of -----
I. F. of ----
I. S. of ---
W. B. writer in Edinburgh
I. R. writer there
G. M. of ---
P. A. notary-public in ----
I. G. merchant-burgeſs of ---

The VERDICT *of the* INQUEST.

THE haill perſons of inqueſt *reſpective* above-named, being all ſolemnly ſworn, received, and admitted to paſs upon the ſaid appriſing, and they being forth of court, removed, and re-entering therein again, having all heard, ſeen, and conſidered the ſaid purſuer's claim, with the inſtructions thereof, and being well and ripely adviſed therewith, all in one voice, but variance, by the mouth of the ſaid T. M. one of their number, and elected, nominate and choſen by them, in chancellor of the ſaid inqueſt, appriſed and appriſes *affirmative*, conform to the claim and inſtructions thereof; and ordains the ſaid purſuer, his heirs and aſſignees, to be heritably infeft and ſeiſed in the lands and others therein ſpecified, to be holden as is therein expreſſed, none compearing to object in the contrary; whereupon the ſaid A. M. as procurator aforeſaid, aſked, and took inſtruments, and proteſted *contra omnes non comparentes*, and that ſilence might be enjoined to them for the future, which the ſaid judge admits, and interpones his authority thereto.

T. M. *cancellarius.*

Their acts of court are ſubſcribed by the chancellor, as alſo the ſecond clerk, or clerk of the ſecond court, atteſts the members of the firſt court to be choſen and ſworn; and the clerk of the firſt court atteſts the members of the ſecond court to be choſen and ſworn, as is ſeen done in the acts aforeſaid.

THE method of leading the appriſing is thus, 1. The judge goes in to the tolbooth, betwixt eleven and twelve hours, and ſitting down, the procurator exhibits his procuratory, with the letters of appriſing, grounds thereof, and the

the messenger's warrant, with the executions; after which the judge creates the members of both courts, and takes them sworn. 2. The court is fenced by the officer. 3. The parties are thrice called, and not appearing, the matter is referred to the inquest, who being sworn by fives, *de fideli administratione:* Then they chuse one of their number chancellor, which goes by plurality of votes; and so the chancellor being thus elected, the procurator exhibits to the inquest the claim, letters of apprising, with the grounds thereof, executions and warrant to instruct the pursuer's claim, (then publicly read by the clerk in their audience) and the chancellor diligently comparing all, as to dates, sums, bonds, especially the warning of the party: That it be lawfully done with all the solemnities requisite, and all being found clearly done, and that the claim is sufficiently instructed, then the chancellor declares so much to the inquest, after which, all sists till the hour of twelve chap out, and then the parties are called by the collegue, with certification the inquest will apprise, and none compearing to object, the clerk calls their names again by fives, inquiring, apprise or not, and all the fifteen persons, or *major pars* apprising *affirmative*, then the judge causes thereafter the collegue offer the lands thrice at the door to the parties, or any in their name, who will come and buy them for payment of the sums for which they are apprised, with certification the lands will be adjudged to pertain to the pursuer; and none appearing, the judge, by virtue of his office, and conform to act of parliament, does judicially assign the lands to the procurator in the pursuer's name, and ordains the pursuer to be infeft; and it is to be remembered, that the procurator takes instruments. 1. Upon the creation of the members, and fencing of the court. 2. Upon the calling of the parties, and their not appearing. 3. Upon the matter, it's being referred to the inquest, and their being sworn. 4. Upon the parties being called of new, and not appearing, and the inquests apprising. And *lastly*, upon the offer of the lands, and judicial assignment; an then the chancellor subscribes the acts of court and verdict on the end of the claim.

DECREET of APPRISING.

Curia appretiationis terrarum, aliorumque subtus scriptorum cum pertinentiis, tenta in pretorio, seu nova sessionis domo, burgi de Edinburgi, die mensis, anno salutis humanæ millesimo sexcentesimo,

coram discreto viro I. H. nuncio vice-comite in hac parte, specialiter constituto, ejusque collegis ad instantiam W. G. de *contra A. B. C. D. et I. B. virtute literarum appretiationis et nominationis sub signeto regio, ex deliberatione Dominorum Consilii et Sessionis, ad hunc effectum datarum et directarum dispensationem tam penes locum, quam tempus vacantiosum si contigerit,) in se continen. modo* respective *subtus mentionat.*

CURIA

CURIA LEGITIME AFFIRMATA.

TO all and ſundry whom it effeirs, to whoſe knowledge thir preſents ſhall come, I I. H. meſſenger, ſheriff in that part, and judge in the decreet and proceſs of appriſing under-written, ſpecially conſtitute, greeting; foraſmuchas our ſovereign Lord George, by the grace of God, king of Great Britain, France, and Ireland, defender of the faith, his letters of poinding and appriſing after ſpecified, given under his Highneſs's ſignet, by warrant and deliverance of the lords of council and ſeſſion, purchaſed, raiſed and executed at the inſtance of the ſaid W. G. purſuer, againſt the ſaid A. B. C. D. and I. B. defenders, were direct to I. H. meſſenger, me, or any other meſſenger at arms, and our collegues, one or more, conjunctly and ſeverally, make and mention, that where, (here to inſert the narrative of the letters of appriſing *verbatim*: from that where, till ye come to the will, calling the complainer always purſuer, and ſpeaking ſtill in the preterite time, and including thir words, as was alledged, and for the will, ye are to ſay in lieu thereof,) commanding and charging therefore the ſaid I. H. meſſenger, me or any other meſſenger at arms, and our collegues, one or more, conjunctly and ſeverally, to paſs, and in his Majeſty's name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind, and diſtrenzie all and ſundry the ſaid A. B. C. D. and I. B. their readieſt goods, gear, (here to inſert the will of the letters, till ye come to according to juſtice, only calling the complainer purſuer,; and whereas the letters ſay, that ye denounce that ye warn in place thereof, to ſay, to denounce, to warn in the infinitive mood, and then ſay) by virtue, and at command of the which letters of poinding and appriſing above written, the ſaid I. H. meſſenger, one of the ſheriffs in that part, thereby, lawfully conſtitute, paſſed upon the days of years, to and within the ſaid A. B. his dwelling-houſe of and the ſaid C. D. his dwelling-houſe of and the ſaid I B. his dwelling-houſe of where they, with their families, had their actual reſidence and manſion for the time; and thereafter the ſame days he paſſed to the ground of all and ſundry, (hereto inſert the executions *de verbo in verbum*, with thir alterations (K.) *Primo*, whereas the executions ſpeak in the meſſenger's name thus: I ſearched, I denounced, I warned in the decreet, (ſince the judge ſpeaks) ye muſt ſay, the ſaid I. H. ſearched, he denounced, he warned, in the third perſon always; and whereas the executions bear to be appriſed before me, within the new ſeſſion-houſe of Edinburgh, upon the day of you muſt ſay in the decreet, to be appriſed before the ſaid I. H. meſſenger, or any other meſſenger at arms, and their collegues, one or more, conjunctly and ſeverally, this preſent day and place, in the hour of cauſe; and for the words, to compear before me, ye are to ſay, to compear before the ſaid meſſenger, me, or any other meſſenger at arms, and our collegues, one or

more, conjunctly and ſeverally this preſent day and place; and when ye come to thir words, of the executions, and for the more certification, forbear them, and ſay: As the ſaid letters of poinding and appriſing, and executions thereof duly made, ſtamped and ſubſcribed by the ſaid I. H. as meſſenger thereto, in themſelves more fully proports; and ſicklike, I the ſaid I. H. by virtue of the ſaid letters of poinding and appriſing, and at command thereof, paſſed upon the day of inſtant, (the ſame being the day appointed for leading and deducing of the ſaid appriſing, and in name and authority aforeſaid, lawfully warned the haill perſons of inqueſt (6) *reſpective* after named, all perſonally apprehended, and delivered to ilk one of them a juſt and authentic copy of the ſaid letters of poinding and appriſing, to compear before me and my collegues, one or more, conjunctly and ſeverally, this preſent day and place, in the hour of cauſe, by diſpenſation above-written, to paſs upon the inqueſt of the ſaid appriſing, ilk perſon under the pain of forty pounds money foreſaid, after the form and tenor of the ſaid letters of poinding and appriſing in all points; at and upon the which day of inſtant, I the ſaid I. H. meſſenger, ſheriff in that part foreſaid, and judge in this preſent appriſing, compeared perſonally within the new ſeſſion-houſe of Edinburgh, and there, by virtue of the ſaid letters of poinding and appriſing, cauſed fence, hold and continue courts of the ſaid appriſing, and create all members thereof requiſite and neceſſary. Likeas, I cauſed call therein the ſaid A. B. C. D. and I. B. defenders, and all others having, or pretending to have intereſt in the ſaid matter, three ſeveral times at the bar, and moſt patent window of the ſaid new ſeſſion-houſe of Edinburgh, to compear before me and my collegues, one or more, conjunctly and ſeverally, this preſent day and place, in the hour of cauſe, by virtue of the diſpenſation above-written, contained in the ſaid letters of poinding and appriſing, and to hear and ſee the ſame duly, lawfully, and orderly led and deduced, and the perſons of inqueſt under-named, received, ſworn, and admitted to paſs thereupon, and to oppone and object againſt the ſame, as accords of the law, and made intimation and certification to them as effeirs. In the whilk courts of the ſaid appriſing, compeared perſonally A. M. writer in Edinburgh as procurator, lawfully conſtitute by the ſaid purſuer, to the effect after ſpecified, conform to the power and letter of procuratory granted to him thereanent, dated the day of and aſked and took inſtruments upon the inſtitution and creation of the ſaid courts of appriſing, and of the members thereof, and thereafter produced before me in judgement the ſaid purſuer his claim, deſiring, that all and ſundry the foreſaid lands, teinds, and others above denounced to be appriſed with the pertinents, might be appriſed from the ſaid A. B. C. D. and I. B. their heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, at the inſtance, and to, and in favour of the ſaid purſuer, his heirs and aſſignees whatſomever heritably, for payment and ſatisfaction to them of the ſums of money principal, annualrents, expences and ſheriff-fee *reſpective* above-ſpecified, therein contained, extending in manner there-

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in expreſſed; and that they might be ordained to be heritably infeft and ſeized thereintil, to be holden in manner under-written, in manner at length ſpecified, and contained in the ſaid claim, and for inſtruction and verification thereof, the ſaid A. M. as procurator foreſaid, produced alſo therewith before me in judgement, the extract of the foreſaid bond, granted by the ſaid A. B. and C. D. as principal and cautioner foreſaid, to the ſaid G. D. and aſſignation thereof made by him to the ſaid purſuer, with the foreſaid decreet of ſuſpenſion, and act of caution regiſtrate (7) together with the foreſaid letters of poinding and appriſing, executions thereof, and letter of procuratory above mentioned, all of the dates, tenors, contents, and regiſtrations above expreſſed, and upon production of the ſaid writs, only neceſſary to have been produced in the ſaid appriſing, for verification of the ſaid claim; the ſaid A. M. as procurator aforeſaid aſked, and took inſtruments, and the ſaid A. B. C. D. and I. B. defenders, and all others having or pretending to have intereſt in the ſaid matter, being all lawfully warned of before, in manner and to the effect aforeſaid, and none compearing to object againſt the ſaid appriſing, the ſaid procurator alſo thereupon aſked and took inſtruments, and deſired proceſs thereupon (8) and that the matter might be referred to the knowledge of an inqueſt; and likewiſe proteſted *contra omnes non comparentes*, and that ſilence might be injoined to them for the future. Whilk proteſtation I admitted, and hereby admit, and ſo proceeding in the proceſs, the rights, reaſons and allegations of the ſaid purſuer, his ſaid claim being by me at length heard, ſeen and conſidered, and therewith being well and ripely adviſed, referred the ſaid matter to the knowledge of the inqueſt of the perſons after-named, moſt worthy, leaſt ſuſpect, and who beſt know the verity of the ſaid matter, being all lawfully warned of before, to that effect in manner above expreſſed; they are to ſay, (hereto inſert the names and deſignations of the fifteen perſons of inqueſt, as they are ſet down in the acts of court), whilk perſons of inqueſt being all ſolemnly ſworn, received and admitted to paſs upon the ſaid appriſing, and they being forth of court, removed, and re-entering therein again, having all heard, ſeen and conſidered the ſaid purſuer's claim, with the haill writs and verifications thereof above ſpecified, produced for inſtructing of the ſame, and they therewith being well and ripely adviſed, all in one voice, but variance, by the mouth of the ſaid T. M. one of their number elected, nominate and choſen by them in-chancellor of the ſaid inqueſt, (none compearing to object in the contrary), appriſed and appriſes *affirmative* from the ſaid A. B. C. D. and I. B. (9) their heirs and ſucceſſors, and all others having, or pretending to have intereſt in the ſaid matter, at the inſtance, and to, and in favour of the ſaid purſuer, his heirs and aſſignees whatſomever heritably, all and haill, (here to inſert all in the executions of the appriſing, from the word DENOUNCED in text letters till ye come to the words to BE APPRISED in text letters, only in caſe the denunciation bear the bounding of tenements, acres, or the like, ye may forbear to inſert the bounding at length, and in lieu thereof, ſay, lying and bounded in manner aforeſaid) for payment to them

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of the ſaid ſums extending as ſaid is, upon the whilk appriſing and deliverance thereof above-written, the ſaid A. M. as procurator aforeſaid, aſked act of court and inſtruments, and immediately thereafter, I the ſaid I. H. meſſenger, as judge and ſheriff in that part aforeſaid, 10. did interpone, and by thir preſents interpones my decreet, and authority to the foreſaid appriſing, and deliverance thereof above ſpecified, likeas I cauſed A. M. meſſenger my collegue therein lawfully offer, three ſeveral times at the bar, and moſt patent window of the ſaid new ſeſſion-houſe of Edinburgh, to the ſaid A. B. C. D. and I. B. or any others in their name who would compear, and buy and accept all and ſundry the lands, teinds and others particularly and generally above appriſed, with the pertinents for payment and ſatisfaction to the ſaid purſuer of the ſums of money principal, annualrents, expences and ſheriff-fee *reſpective* above ſpecified, for the whilks the ſame are appriſed in manner aforeſaid, extending as ſaid is, but none compeared for that effect; therefore (and alſo) in reſpect the ſaid purſuer and others in his name have made payment to me of the ſaid ſheriff-fee of whereof I grant the receipt, holds me well content, ſatisfied and paid, and renounces all exceptions in the contrary, and diſcharges him thereof forever), I have made, conſtitute and ordained, and by thir preſents, make, conſtitute and ordain the ſaid purſuer and his foreſaids, my undoubted ceſſioners and aſſignees, in and to the foreſaid ſheriff-fee, and all action competent thereupon for ever; and ſicklike, I the ſaid I. H. meſſenger, as judge and ſheriff in that part aforeſaid, by virtue of my office, conform to the act of parliament, and power thereby committed to me, have judicially ſold, aſſigned, transferred and diſponed, and, by thir preſents judicially ſell, aſſign, transfer, and diſpone, from the ſaid A. B. C. D. and I. B. their heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, to and in favour of the ſaid purſuer, and his foreſaids heritably: All and ſundry the foreſaid towns, lands, mills, woods, fiſhings, yards, orchards, teinds, and others *reſpective*, particularly and generally above denounced, and appriſed, with the pertinents lying and pertaining as ſaid is, and alſo aſſigns and diſpones to them the haill mails, ferms, kains, cuſtoms, caſualties, profits, and duties thereof, of this inſtant crop, and year of God 17 years, and yearly, and termly, in time coming, together with the foreſaid bonds, obligations, aſſignations, tranſlations, diſpoſitions, contracts, reſignations, infeftments, prior appriſings, adjudications, reverſions, legal and conventional, and other writs, evidents, rights, titles and ſecurities *reſpective*, particularly and generally, above appriſed, and I have ordained, and by thir preſents ordain the undoubted right of the haill premiſſes to appertain to the ſaid purſuer, and his foreſaids in all time coming; and ſicklike I ordain the ſaid purſuer, and his foreſaids, to be heritably infeft and ſeiſed in all and ſundry the foreſaid lands, mills, woods, fiſhings, yards, orchards, teinds, and others *reſpective*, particularly and generally above denounced and appriſed, with the pertinents lying, as ſaid is, to be holden, and for to hold the ſame lands and others above appriſed, with the pertinents lying as ſaid is, to the ſaid

purſuer

purſuer and his foreſaids, of our ſovereign lord the king's moſt excellent majeſty, or of (here to inſert the remanent ſuperiors (if any be) of whom they may be ſuppoſed to hold, and then for the more ſecurity ſay) or of any others, the immediate lawful ſuperiors of the ſame, and their ſucceſſors, ſicklike in the ſame manner, and alſo freely (11) in all reſpects, as the ſaid A. B. C. D. and I. B. or one or other of them, or their predeceſſors and authors, held, hold, or might have holden the ſame themſelves, at any time before the ſaid appriſing, after the form and tenor thereof, and act of parliament made anent appriſing of lands, and others for debts in all points; with full power to the ſaid purſuer and his foreſaids, to intromit with, uplift, aſk, crave and receive, the foreſaid mails, farms, cains, cuſtoms, caſualties, profits and duties of the ſaid crop, 17 years, and yearly and termly in time coming during the not-redemption, and to uſe and diſpone thereupon at their pleaſure; and if need be, to call, follow, charge and purſue therefor, before whatſoever judge or judges competent as accords, and to occupy and poſſeſs the ſaid lands and others aforeſaid with their own proper goods, or ſet the ſame to tenants, as they ſhall think expedient, and to remove, out-put and in-put tenants therein yearly at their pleaſure, and to redeem, looſe and out-quit the ſame of all wadſets, annualrents, prior appriſings, adjudications, and other real burdens and incumbrances being thereupon, and wherewith the ſame ſtands any ways really affected, and to uſe premonition and warning thereanent, and to proſecute, follow forth, and purſue the haill order of redemption of the law requiſite for that effect, decreets of declarator removing mails and duties, and others neceſſary in the premiſſes, to obtain and recover, and the ſame to due and lawful execution cauſe be put, compone, tranſact and agree thereanent, and upon receipt and payment of the ſaid ſums and others foreſaid, in haill or in part acquittances and diſcharges, to make, grant, ſubſcribe and deliver, with ample renunciations, and grants of redemption, whilk ſhall be ſufficient to the receivers, and generally all and ſundry other things anent the premiſſes, to do, uſe and exerce, ſicklike, in the ſame manner, and as freely in all reſpects, as the ſaid A. B. C. D. and I. B. might have done therein themſelves at any time before the ſaid appriſing, after the form and tenor thereof, and act of parliament made anent appriſing of lands and others for debts, in all points; and this to all and ſundry whom it effeirs. I notify and make known by thir preſents, in witneſs whereof, to this preſent proceſs and decreet of appriſing above written (written by I. G. ſervitor to G. D. writer to his Majeſty's ſignet, notary-public, and ſubſcribed by the ſaid G. D. as clerk therero, and alſo by me the ſaid I. H. meſſenger, as judge and ſheriff in that part foreſaid) my ſtamp, together with the ſeals of the moſt part of the forenamed perſons of inqueſt, who paſſed upon the ſaid appriſing, are affixed, day, month, year of God, and place, *reſpective* above ſpecified.

This decreet of appriſing being allowed within threeſcore days after leading, conform to the act of parliament: The next thing to be conſidered, and adverted

adverted to, is, Whether the lands appriſed hold of the king or of a ſubject? 2. If of the king, then, Whether burgage (as tenements within burgh, or the like), or if otherwiſe, as ward blench or feu? And ſo concluding the lands to hold of the king, and yet not burgage, there muſt infeftment paſs the whole ſeals, by way of ſignature and compoſition in exchequer, becauſe the ſignature is the firſt ſtep, the tenor thereof follows.

SIGNATURE *of* APPRISING.

OUR Sovereign Lord, with the ſpecial advice and conſent of his majeſty's right truſty, and well beloved couſin and familiar counſellor, I. E. of R. L. L. and B. lord high treaſurer, comptroller, and collector-general of his majeſty's rents, and new augmentations, within this his ancient kingdom of Scotland; and alſo with conſent of W. L. B. of B. his majeſty's treaſurer-depute: In all the ſaid offices, and ſicklike with conſent of the remanent lords of his highneſs's exchequer of the ſaid kingdom, his majeſty's commiſſioners. Ordains a charter and infeftment to be made and paſſed under his majeſty's great-ſeal of the ſaid kingdom, in due and competent form: giving, granting, and diſponing, for his highneſs and his ſucceſſors perpetually confirming: Likeas, his majeſty with conſent foreſaid by thir preſents, gives, grants, and diſpones; and for his highneſs and ſucceſſors perpetually confirms to W. G. of his heirs and aſſignees whatſoever heritably: All and haill the lands of (hereto inſert the lands holden of the king, as they are in the allowance of the appriſing, and then ſay) with the teind-ſheaves, and other teinds both great and ſmall, as well parſonage as vicarage of the ſaid lands and others foreſaid. Which lands, teinds and others above-ſpecified, with the pertinents lying in manner foreſaid, pertained heritably of before to A. B. C. D. and I. B. and were with certain reverſions and other writs and evidents in a court of appriſing, holden within the new ſeſſion-houſe of Edinburgh, before I. H. meſſenger and his collegues, upon the day of years, duly and lawfully appriſed from them, their heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, at the inſtance, and to and in favour of the ſaid W. G. his heirs and aſſignees, for payment and ſatisfaction to them of the ſums of money, principal, annualrents and expences, *reſpective* ſpecified in the decreet and proceſs of appriſing led and deduced thereanent, extending to the ſum of Scots money, and that as for the principal, and of the ſheriff-fee effeiring thereto, extending to the ſum of money foreſaid, *ſalvo juſto calculo* in both the ſaid ſums, as the ſaid decreet of the date foreſaid, ſeen and allowed by the Lords of Council and

and Seſſion, and by them found orderly proceeded, in manner written on the back thereof, upon the day of ordaining the foreſaid infeftment to be paſſed and expede thereupon, by way of ſignature, and compoſition in exchequer, in itſelf more fully proports: And his majeſty wills and grants, and for his highneſs and his ſucceſſors, with conſent foreſaid, decerns and ordains, that a ſeiſin to be taken by the ſaid W. G. and his foreſaids, now and in all time coming, at the manor-place, or dwelling-houſe of or upon the ground of any other part or portion of the ſaid lands, and others above appriſed, with the pertinents, is, and ſhall be as ſufficient to them for the haill foreſaid lands, teinds, and others above ſpecified, as if one particular ſeiſin were taken by them upon each part and portion thereof, albeit the ſame be not *ſuo done*; and notwithſtanding the lands lye diſcontigue, and within divers ſheriffdoms, whereanent, and with all that may follow thereupon, or that can be any ways opponed or objected againſt the ſame; his majeſty has diſpenſed, and by their preſents for him and his ſucceſſors, with conſent foreſaid diſpenſes forever. To be holden and for to hold, all and ſundry the foreſaid lands, teinds, manor, places, mills, woods, fiſhings, and others *reſpective*, particularly and generally above appriſed, with the pertinents lying as ſaid is, to the ſaid W. G. his heirs and aſſignees whatſoever heritably of his majeſty, and his ſucceſſors in fee and heritage forever, by all rights, meiths, and marches of the ſame, old and deviſed as the ſame lyes in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, multures, *&c.* hawking, hunting, *&c.* coals, coal-heughs, *&c.* doves, dove-coats, *&c.* cunnings, cunningares, *&c.* ale-houſe, brew-houſes, *&c.* court, plent, *&c.* with free iſh and entry, *&c.* and generally with all and ſundry other liberties, *&c.* freely and quietly, *&c.* but any revocation, *&c.* giving therefor yearly the ſaid W. G. and his foreſaids to his majeſty, and his ſucceſſors, the feu-duties, and other duties, rights and ſervices, (if any be) due and payable to them and other duties, rights and ſervices, (if any be) due and payable to them forth of the ſaid lands, teinds, and others foreſaid, and contained in the original infeftments of the ſame, at any time before the ſaid appriſing, for all other burden, exaction, *&c.* and under reverſion always conform to act of parliament; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly direct hereupon, in due and competent form as effeirs. Given at

This ſignature being preſented by the perſon appointed for that office (marked on the back, with the writer's ſuperſcription) to the exchequer, it is componed for ten merks for each 1000 *merks of the firſt* 10000 *merks, and five merks for each* 1000 *merks more, contained in the appriſing (being a firſt compriſing) and being a ſecond, third, and ſo forth for the half,* viz. *five merk for each thouſand, after which compoſition, the preſenter gives it out to the writer, and marks it preſented on the back by himſelf to the exchequer, and ſubſcribes*

ſubſcribes, and thereafter the writer goes to the perſon, keeper of the treaſurer's regiſter, who receives and regiſtrates the ſame verbatim, (*albeit not requiſite*) *ſince a ſhort componed thus: A ſignature of appriſing of the lands of and others in favour of paſt the day of years, and componed for pounds Scots money, to comptrol the treaſurer, and his deputes, at the fitting of their accounts is ſufficient: But to proceed, this ſignature according to the cuſtom being regiſtrate, the next thing is to write the precept thereon, whereof the tenor follows.*

Nota, The caſhet muſt be had thereto.

Præceptum ſupra Signaturam, appretiationis.

GEORGIUS Dei gratia, magnæ Britanniæ, Franciæ et Hiberniæ rex, fideique defenſor, pro delecto noſtro conſanguineo et conſiliario Wilielmo comiti de M. domino de K. et alteri, noſtri ſecreti ſigilli cuſtodi ſalutem, Quia nos cum ſpeciali aviſamento et conſenſu prædelecti noſtri conſanguinii et conſiliarii I. comiti de domini de principalis theſaurarii, noſtrorum computorum rotulatoris, et collectoris generalis noſtrarum firmarum novarumque; augmentationum infra regnum noſtrum Scotiæ, ac etiam, cum ſpeciali aviſamento, et conſenſu prædelecti noſtri conſiliarii Willielmi domini de B. noſtri theſaurarii deputati in dictis officiis, infra dictum regnum noſtrum, nec non cum aviſamento et conſenſu reliquorum dominorum noſtri ſcaccarii dicti regni noſtrorum commiſſioniarorum dedimus, conceſſimus, depoſuimus, et pro nobis et ſucceſſoribus noſtris, cum conſenſu antedicto, pro perpetuo confirmavimus, ſicuti nos per preſentes, damus, concedimus, diſponimus, proq; nobis et ſucceſſoribus noſtris, cum conſenſu antedicto in perpetuum confirmamus. Delecto noſtro W. G. de ejuſque hæredibus, et aſſignatis quibuſcunque hæreditarie, totas et integras terras de (hic inſere terras ut in ſignatura) una cum decimis garbalibus, aliiſque decimis tam rectoriis quam vicariis, tam magnis quam minutis omnium et ſingularum praedict. terrarum, aliorumque ſupra ſcript. cum pertinen. Quæquidem, terræ decimæ aliaque ſupra mentionata cum pertinentiis jacen. ut prefertur perprius hæreditarie pertinuerat ad A. B. C. D. et I. B. et cum certis reverſionibus, aliiſque juribus et ſecuritatibus, in curia appretiationis, in praetorio ſeu nova ſeſſionis domo de Edinburgo, tenta coram I. H. nuntio, vice-comite in hac parte, ejuſque collegis die menſis anno domini milleſimo ſeptingenteſimo ſeptageſimo a prefatis A. B. C. D. et I. B. eorum hæredibus et ſucceſſoribus, omnibuſque aliis jus haben. vel preten. ad inſtantiam W. G. de legitime appretiatæ fuerunt pro ſolutione ei ſummarum monetæ principalis annuorum reddituum, et expenſarum reſpective in decreto et proceſſu appretiationis id circa deducto content.

tent. extenden. ad ſummam monetæ Scotiæ et hoc tanquam pro principali et vicecomitis feodi ad eandem correſpondentis extenden. ad ſummam monetæ antedicte ſalvo juſto calculo, indictis ambabis ſummis, ut dictum decretum et proceſſus appretiationis viſum et approbatum per dominos concilii et ſeſſionis perque eos legitime proceſſum repertum modo in dorſum ejuſdem ſcripto die menſis ordinans hoc noſtrum infeofamentum via ſignaturæ, et compoſitionis noſtro ſcaccario, deſuper ſequi latius proportat. Ac nos volumus et concedimus, proque nobis et ſucceſſoribus noſtris cum conſenſu antedicto; decernimus et ordinamus quod ſaſina nunc et omni tempore affuturo per dictum W. G. ejuſque antedictos apud maneriei locum, ſeu manſionem de vel ſuper ſolo alicujus partis et portionis praedictarum terrarum aliorumque ſupra-appretiat cum pertinen. capienda, eſt et erit tam valida et ſufficiens iis pro omnibus et ſingulis praedictis terris decimis aliiſque ſupra ſpecificatis cum pertinen. ac ſi particularis ſaſina per eos ſuper unaquaque parte earundem ſuſcepta fuiſſet. Quamvis non ita factum, ſit non abſtante quod jacent diſcontigue, &c. et in diverſis vicecomitatibus. Quocirca et cum omnibuſque deſuper ſequi, vel in contrarium objici poterint, nos cum conſenſu antedicto diſpenſavimus proque nobis noſtriſque ſucceſſoribus in perpetuum diſpenſamus. Tenendas et habendas, omne et ſingulas praedictas terras decimas maneriei loca, molendina, nemora, piſcationes, aliaque reſpective particulariter et generaliter ſupra appretiat cum pertinentiis jacen. ut praedicitur. Memorato W. G. ejuſque hæredibus et aſſignatis ſupraſcriptis hæreditarie de nobis et ſucceſſoribus noſtris in feodo et hæreditate in perpetuum per omnes rectas ſuas metas antiquas et diviſas prout jacen. in longitudine et latitudine. In domibus, ædificiis &c. moris mareſiis &c. piſcationibus &c. molendinis multuris et eorum ſequelis &c. auccupationibus, venationibus &c. petariis turbariis &c. carbonibus, carbonariis, cuniculis, cunicullariis, columbis, columbariis&c. cum curiis et earum exitibus &c. liberoque introitu et exitu &c. ac cum omnibus et ſingulis aliis libertatibus &c. libere, quiete &c. abſque ulla revocatione &c. reddendo, inde annuatim præfatus W. G. ejuſque antedicti. Nobis et ſucceſſoribus noſtris feudifirme firmas albe firmæ firmas aliaſque divorias jura et ſervitia (ſiquæ ſint) in originalibus infeofamentis earum contentas et ex praedictis terris aliiſque ſupraſcriptis cum pertinen. nobis debitas et ſolutas antedictam appretiationem pro omni alio onere &c. ſub reverſione tamen modo, in acto parliamenti contento. Vobis igitur precipimus, et firmiter mandamus quatenus præceptum noſtrum ſub dicto noſtro ſecreto ſigillo pro charta noſtra noſtro ſub magno ſigillo in debita forma ſuper, praemiſſis conficienda cancellario noſtro in forma capellae noſtrae debite dirigatis. Datum ſub ſigneto noſtro apud Edinburgum die menſis anno domini milleſimo ſepcenteſimo ſeptageſimo regnique noſtri anno -----

Per ſignaturam ſigno manus, S. D. N. regis ſupra ſignatum manibuſque theſaurarii principalis et deputati et quorundam dominorum aliorumque ſui ſcaccarii ejuſque commiſſionariorum ſubſcriptam.

Nota, All precepts and what elſe paſs the privy ſeal, are regiſtrate there, and an extract forth thereof bears faith by act of parliament.

The next thing to be known is, how to paſs the ſeal with this infeftment, or the like, which is to be done in the method following. *Primo*, This precept being ſubſcribed by the writer to the ſignet, and waxed, ye go therewith to the ſignet-office, where the keeper collationing both ſignature and precept, and finding them one and the ſame, and truly tranſlated, ſeals the precept, and delivering it back to the writer, or his ſervant, keeps and retains the ſignature for his warrant. *Secundo*, Ye go with the precept thus ſignet to the writer to the privy ſeal, or his depute, who, upon ſight thereof, writes out another precept *de verbo in verbum*, only he directs his precept to the chancellor for expeding a charter thereupon under the great ſeal, and ſubſcribes this ſecond precept on the back, thus written to the privy ſeal the day of by me And both precepts being delivered back to you, ye go therewith to the lord privy ſeal, or his depute, who attends the diſcharge of that office: and he, upon ſight of the precept, under the ſignet, appends the privy ſeal to the other precept, direct to the chancellor, and delivers the ſame ſo ſealed to you, and keeps that under the ſignet for his warrant. *Tertio*, Ye go with this precept under the privy ſeal, to the director of the chancellory, or his depute, who, incontinent, write out a charter thereupon, and ſubſcribe the ſame on the back, thus written to the great ſeal, by me director of the chancellory; which charter and precept, under the privy ſeal, being delivered to you, ye go therewith to the keeper of the great ſeal, or chancellor's depute, who, upon ſight of the ſaid precept, appends the great ſeal thereto, and upon the back thereof, writes thus ſealed, the day of years, and ſets down the rate, as the other ſeals do; and delivering you the charter ſo ſealed, keeps the precept aforeſaid for his warrant. *Quarto*, The charter being thus ſealed, ye return therewith to the chancellory, where the director, or his depute, mark, the ſame only on the back, regiſtrate without any ſubſcription, for all charters are regiſtrate at the great ſeal, and for diſpatch, the writer gives them a full and perfect copy, whereas, otherwiſe, the charter behoved to be regiſtrate, before giving out which would retard the client. *Laſtly*, The director, or his depute, give out alſo with the charter, a precept under the teſtimony of the great ſeal, otherwiſe called the quarter ſeal, direct to a ſheriff, or bailie in that part, for giving ſeiſin to the appriſer of the lands, and others contained in the charter, and this precept being preſented to any notary, he gives ſeiſin, as follows.

Nota, As this was the cuſtom when thir ſtiles were written, ſo, before printing, they alter in thir two points. 1. No precepts upon charters paſs now the quarter ſeal, but inſert in the end of the charter. 2. The charters are regiſtrate before they go to the great ſeal; and ſo appointed by act of parliament, and good for the lieges.

SASINA.

SASINA.

IN Dei nomine, Amen. Per hoc presens, publicum instrumentum cunctis pateat evidenter, et sit notum quod anno incarnationis dominicae, millesimo septentesimo sexagesimo mensis vero die regnique excellentissimi et sereniſſimi principis Georgii tertii, Dei gratia, magnae Britanniae, Franciae et Hiberniae regis, fideique defensoris, anno In mei notarii, publici et testium subscriptorum. 4. Presentia personaliter. 6. Comparuit. honorabilis vir W. G. de in cujus favorem preceptum sasinae subtus script. factum et concessum est modo subtus mentionato, et accessit cum discreto et honesto viro, I. K. de vicecomite, vicecomitatus de respective in hac parte, subtus specificato specialiter constituto ad maneriei locum de Secundum tenorem in feofamenti subtus script. et virtute dispensationis inibi contentae, habens, et in suis manibus, tenens quoddam preceptum sasinae e cancellaria memorati. S. D. N. regis sub testimonio sui magni sigilli, praenominato, I. K. tanquam vicecomiti antedicto, directum ut dictum honorabilem virum, W. G. in totis et integris terris decimis manerierum locis, domibus, aedificiis, molendinis, piscationibus aliisque subtus-mentionatis jacen. pertinen. et appretiat. modo subtus scripto in-sio daret. Quodquidem sasinae preceptum, subinsertum dictus W. G. exhibuit, et presentavit denominato, I. K. tanquam vicecomiti in hac parte per eidem, legitime constituto, eundem requirens quatenus ad executionem ejusdem sasinae precepti et officii vicecomitis in hac parte, sibi comisi, debite procederet. Quiquidem vicecomes, sciens et percipiens dictam requisitionem et desiderium fore justam, rationique consonantem dictum sasinae praeceptum subinsertum manibus suis, omni qua decuit reverentia accepit, mihique notario publico subscripto perlegendum, publicandum et astantibus exponendum, tradidit et deliberavit, cujus sasinae precepti, tenor sequitur et est talis Georgius, Dei gratia (hic insere praeceptum, verbatim et postea verba in dorsum ejusdem script. una cum subscriptione directoris vel ejus deputati sub hac forma sic subscribitur J. Ker post cujusquidem sasinae precepti, perlectionem, publicationem, et in vulgari astantibus, explanationem praefatus discretus, vir. I. K. tanquam vice-comes antedictus, secundum tenorem hujusmodi et virtute ejus officii vicecomitis sibi in hac parte, commissi statum sasinam haereditariam pariter et possessionem actualem corporalem et realem, totarum et integrarum, praedictarum, terrarum, manerierum, locorum, domorum, aedificiorum, piscationum, molendinorum, multurarum, hortorum, pomariorum, decimarum, aliarumque respective particulariter et generaliter supra script. cum pertinen. jacen. ut praefertur praenominato, W. G. personaliter presenti et acceptanti per terrae et lapidis fundi praedictarum terrarum lie clapp et happer dicti molendini, necnon manipuli granarii et retis piscationum, apud dictum maneriei locum de virtute dictae dispensationis, traditionem

nem et deliberationem ut moris eſt dedit, tradidit, pariterque deliverabit (nemine opponente, nec in contrarium contradicente) ſuper quibus, omnibus et ſingulis praemiſſis dictus W. G. unum vel plura inſtrumentum ſeu inſtrumenta me notario publico ſubſcribente ſibi fieri petiit acta erant haec apud dictum maneriei locum de horas inter meridiem die, menſe, anno, annoque regni, reſpective ſupra mentionatis, preſentibus diſcretis et honeſtis viris, I. G. de A. B. de A. G. de I. I. incola in W. G. dicti, W. G. ſervitore, et I. T. meo ſervitore, cum diverſis aliis teſtibus, ad praemiſſa ſpecialiter rogatis et requiſitis.

To all ſeiſins, there ſhould be four witneſſes, if poſſible there can be ſo many had; but if not, three will be ſufficient with the notary, nor is it to be forgot, that all ſeiſins (except of burgage lands, which needs no regiſtration at all) muſt be regiſtrate within threeſcore days after paſſing thereof, conform to the act of parliament.

Nota, Albeit, when thir ſtiles were written, the witneſſes were only inſert, I mean names, ſirnames, and deſignations, yet now, by act of parliament, they, (as well as the notary) muſt ſubſcribe, and ſo if the ſeiſin be loſt, it is difficult to make up a principal, if the witneſſes be dead, albeit the notary be alive, and therefore when the ſubject matter is of import, take out two principal ſeiſins, and regiſtrate them *in majorem tutelam*; becauſe of this alteration, add now at the 4. figure, *nec non ſubſcribentium*; and further, when the king grants a diſpenſation, it is thought, the delivery of earth and ſtone is ſufficient, without neceſſity of any other ſymbol.

The next thing to be conſidered is, but what if the lands, or at leaſt ſome of them, hold of the king burgage, and others of other ſuperior ſubjects, how then ſhall the appriſer be infeft? The uſual way is to raiſe horning againſt the magiſtrates of the burgh, within the which the burgage lands lye, to infeft in them, and againſt the other ſuperior to do the like, as to the lands holding of them, and for brevity's cauſe, to inſert all of them in one horning, in the form following.

Horning againſt the Superiors being ſubjects, and the magiſtrates of burghs, as to what lands and others, either holden of them, or of the King, in libero burgagio.

GEORGE, *&c.* to, *&c.* meſſengers, *&c.* foraſmuchas it is humbly meaned and ſhown to us by W. G. of that where by decreet and proceſs of appriſing, led and deduced within the new ſeſſion-houſe of Edinburgh, before I. H.

I. H. meſſenger, judge and ſheriff in that, and his collegues, upon the day of years, the ſaid complainer obtained, lawfully appriſed to him, his heirs and aſſignees whatſomever heritably, from A. B. C. D. and I. B. their heirs and ſucceſſors, and all others having, or pretending to have intereſt in the ſaid matter, all and haill the lands of (here inſert the lands holden of the king burgage, and the lands holden of the ſuperior,) together with the teinds, ſheaves, and other teinds both great and ſmall, as well parſonage as vicarage, of the ſaid lands and others foreſaid, together alſo with certain reverſions, and other writs and evidents particularly and generally ſpecified and contained in the ſaid decreet, and proceſs of appriſing, for payment and ſatisfaction to the ſaid complainer of the ſums of money principal, annualrents and expences therein contained, extending in manner therein-expreſſed, and of the ſheriff-fee effeiring thereto, extending alſo in manner therein ſpecified, *ſalvo juſto calculo*, as the ſaid decreet and proceſs of appriſing of the date foreſaid, ſeen and allowed by the Lords of Council and Seſſion, and by them found orderly proceeded in manner written upon the back thereof, upon the day of ordaining the ſaid complainer to be heritably infeft in the ſaid lands, tenements, and others above appriſed, with the pertinents, to be holden in manner underwritten, and thir our letters to be direct for that effect, againſt the ſuperior, and other perſons after-named, in manner after expreſſed, ſhown to the ſaid Lords, has teſtified, nevertheleſs, the ſaid perſon wrongouſly refuſe to infeft him, and his foreſaids therein, without they be compelled, as is alledged. Our will is herefore, and we charge you ſtraitly, and command, that incontinent, thir our letters ſeen, ye paſs, and in our name and authority, command and charge the provoſt and bailies of our burgh of preſent or to come, within whoſe juriſdiction the foreſaid lands, with the pertinents, lye to infeft and ſeiſe the ſaid complainer and his foreſaids therein, and ſicklike command and charge W. P. of I. E. of and G. D. of perſonally, or at their dwelling-places, to infeft and ſeiſe the ſaid complainer and his foreſaids, in the remanent lands, mills, woods, fiſhings, manor-places, teinds, and others above appriſed, with the pertinents each one of them for their own parts; in ſo far, as they are immediate lawful ſuperiors, to be holden in manner following, *viz.* the foreſaid tenements, and others lying within the ſaid burgh of and territory of the ſame, to be holden of us, our heirs and ſucceſſors in free burgage, for ſervice of burgh uſed, and wont, and the remanent lands, teinds, fiſhings, and others above appriſed, with the pertinents, to be holden of the ſaid W. P. of I. E. of and G. D. of and their ſucceſſors, each one of them for their own parts, as ſaid is, ſicklike and as freely in all reſpects as the ſaid A. B. C. D. and I. B. or their predeceſſors and authors, held, hold, or might have holden the ſame at any time before the ſaid appriſing, for payment and ſatisfaction to the ſaid complainer and his foreſaids, of the ſums of money *reſpective* above-ſpecified, extending as ſaid is, after the form and tenor of ſaid appriſing, allowance

ance and approbation written on the back thereof, and act of parliament, made anent appriſing of lands and others for debts in all points, within twenty-one days, next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn, wherein if they fail, that incontinent thereafter, ye denounce them rebels, and put them to the horn, and eſcheat and in-bring all their moveable goods and gear to our uſe, for their contemption, and alſo that ye uſe the haill remanent order againſt them preſcribed by our act of parliament made thereanent, according to juſtice, becauſe the Lords have ſeen the decreet of appriſing above written, allowed, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, That magiſtrates of burghs, immediately as they are charged, uſually give obedience, and grant infeftment without ſuſpending, and the reaſon is, there is no compoſition due to them, as to other ſubjects, for lands within burghs are liable to ſcotting, lotting, watching, warding, and all other emergents incident to incorporations, which for the moſt part other lands, outwith burghs, are not liable to; and becauſe ſome burghs give charters ſubſcribed by the provoſt and bailies, and others not, but one of their number give ſeiſin, and that others grant charters and ſeiſin in one according to the ancient cuſtoms of the reſpective places, and that the charter when uſed, is written, and the ſeiſin given by the town-clerk, I omit both here, as extraneous to my office, and it is to be remembered, that many burghs have tenements and roods within their territory, that hold not of the king burgage, ſuch as conſtable, chapel, and temple-lands, *&c.* but hold of other ſuperiors, and yea ſometimes burghs acquire right to the like ſuperiorities, and there be other burghs, the ſuperiority whereof, (before they were erected,) belonged to the king, and held of the crown (otherwiſe than burgage) and likewiſe ſome burghs before their erection, were eccleſiaſtic cities, as St Andrews, Glaſgow, Dornock, *&c.* and and who, in theſe, and the like caſes, albeit afterwards, erected in a free royal burgh, cannot be prejudged of their ſuperiority, or want the benefit of compoſitions, that of the law is due to them, upon the account of any ſuch erection, without the king, or other ſuperiors diſpenſe therewith. But in the next place, other ſuperiors ſometimes they ſuſpend, and ſometimes give obedience, as they and the appearing vaſſal agree or diſagree anent the compoſition, and that there be no other juſt ground why the ſuperior cannot enter, or receive him, as afterwards is cleared; ſo that concluding, (ſince it is fit, ſome things of all caſes ſhould be known) the ſuperior muſtſuſpend, the tenor thereof follows.

SUSPENSION,

SUSPENSION, *a Superior againſt an Appriſer.*

GEORGE, &c. foraſmuchas, it is humbly meaned and ſhown to us, by W. P. of that where W. G. of has upon his pretended manner raiſed other letters, and therewith cauſed charge the ſaid complainer, as ſuperior of the lands and others under-written, to infeft and ſeiſe him in all and haill, (hereto inſert the lands as they are ſet down in the charge of horning) lying within the ſheriffdom of with the teinds, parſonage and vicarage of the ſame, which pertained heritably of before to A. B. C. D. and I. B. and were lawfully appriſed from them, at the inſtance of the ſaid W. G. in a court of appriſing, holden within the new ſeſſion-houſe of Edinburgh, before I. H. meſſenger and his collegues, upon the day of years for payment to him of the ſums of money principal, annualrents, expences, and ſheriff-fee, ſpecified in the ſaid appriſing, extending in manner therein-expreſſed, to be holden of the ſaid complainer, his heirs and ſucceſſors, as immediate lawful ſuperiors thereof, as freely in all reſpects as the forenamed perſons, and their predeceſſors and authors held, hold, or might have holden the ſame themſelves, at any time before the ſaid appriſing, after the form and tenor thereof, allowance and approbation written on the back thereof, upon the day of and act of parliament made anent appriſing of lands, and others for debts, in all points, within a ſhort ſpace next after the charge, under the pain of rebellion, and putting of the ſaid complainer to the horn, and for alledged diſobedience thereof, has denounced, at leaſt, intends to cauſe denounce him thereto, moſt wrongouſly and unjuſtly, conſidering, it is of verity that the ſaid complainer is not, nor in law cannot be obliged to give obedience to the ſaid charge, becauſe the forenamed perſons, againſt whom the ſaid appriſing is deduced, were never infeft themſelves in the lands and others appriſed; but, on the contrary, the ſame are, and have been in non-entry, ever ſince the deceaſe of W. B. I. D. and H. B. their fathers, laſt immediate heritable tenants and vaſſals to the ſaid complainer therein, now by the ſpace of years; likeas, during the ſaid ſpace, the whole feu-duties are reſting, and thereby the feu-infeftments are become extinct, by virtue, and conform to the clauſes irritant therein contained, whereby it is declared, that if two terms run in the third, the feu-duty not paid, then the feu ſhall fall, ſo that the appriſing being led againſt perſons not infeft, the ſame is void, and although they were infeft, (as they are not) yet the complainer, after the lands are now become his own, by the foreſaid clauſe irritant, cannot to his own prejudice receive a new vaſſal, being in effect a perfect homologation of that right he now contends to be null, and a paſſing from that benefit that now has accrued to him. *2dly*, The letters ought to be ſuſpended, yea, albeit the forenamed perſons were vaſſals to the ſaid complainer, and that there were no ſuch irritancy incurred, becauſe they are year and day at the

the horn, and thereby their liferent-eſcheat fallen in the complainer's hands, as ſuperior. 3*dly*, The charger being an appriſer, he ought, *ante omnia*, to pay a year's duty of the lands for his entry, according to act of parliament, with the bygone feu-duties, which he has never offered to do, and ſo our Lords of council and ſeſſion may evidently perceive how wrongouſly and unjuſtly the ſaid complainer is charged, in manner and to the effect foreſaid, by all law, equity, and reaſon; nevertheleſs for obedience, the ſaid complainer has found caution, acted in our books of council and ſeſſion, that in caſe, at the diſcuſſing hereof, it be found by the ſaid Lords, that he ought to infeft, as ſaid is, that he ſhall do therein according to their decreet and declarator to be given thereanent; and therefore the foreſaid letters and charge, haill effect and execution thereof, ought and ſhould be ſuſpended upon the ſaid complainer, in time coming, for the reaſons and cauſes foreſaid, and others as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn, and charge the ſaid W. G. perſonally, or at his dwelling-place, to compear before the ſaid Lords at Edinburgh, or where it ſhall happen them to be for the time, the day of in the hour of cauſe, with continuation of days, bringing with him the foreſaid decreet of appriſing, with the letters of horning and others raiſed thereupon, with the executions thereof, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame haill effect and execution thereof, and proceſs of horning therein contained, *ſimpliciter* ſuſpended upon the ſaid complainer, in time coming, for the reaſons and cauſes foreſaid, and others, attour, we, and our ſaid Lords, in our name, by thir preſents, ſuſpend the foreſaid letters and charge, and grounds, whereupon the ſame proceeded upon the ſaid complainer; diſcharging hereby all officers and meſſengers at arms, of all putting of the ſaid letters to any further execution againſt the ſaid complainer, and of their offices in that part, in the mean time while the day of the ſame month, that the verity be known, according to juſtice, becauſe is become caution for the complainer, to the effect above ſpecified, as ye will anſwer to us thereupon, *&c.*

Ex deliberatione Dominorum Concilii.

As to the two blanks of the day of compearance, and day to which the letters are ſuſpended, the deliverance of the bill rules all, and if there be a neceſſity for relaxation, ye have it in the former ſtile, and for the bond of caution, the former is a ſufficient pattern.

Nota, Albeit the ſuſpenſions paſs uſually upon caution, yet it is hard but rather that a charter were conſigned, that when the Lords modify the compoſition, upon payment thereof, or (in caſe of a refuſal) conſignation of the ſame in the clerks hands, the charter may be

given up, and the appriſer not delayed by more ſuſpenſions, there being as much reaſon for it here, as when a ſuperior being charged by the three precepts out of the chancellory, to infeft upon a ſervice, and being to ſuſpend before the third precept be returned to the chancellory, and a fourth given out to infeft, (the lands holding mediately of the king) he, in this caſe, uſually conſigns a precept of *clare conſtat*, only in this laſt caſe, there is hazard of mortality, and in the firſt only a deſire of preference to other creditors, (who probably run in the ſame or like diligence,) which is preſerved and kept entire by the charge of horning given to the ſuperior, ſeeing the date of the infeftment is ſtill brought back to the charge; but the Lords to be brief, grant ſuſpenſions in thir and the like caſes, either upon caution or conſignation, as they pleaſe, and as a matter arbitrary to them, ſo that if the charter be conſigned, the Lords modification being paid (and no other cauſe found, why the appriſer ought not to be infeft) the ſame is ordained to be given up to the appriſer; but if caution be only found, then the bond being extracted, and the decreet of ſuſpenſion, horning may be raiſed againſt the cautioner, and he being charged (as the principal party was formerly, and the charge elapſed) both of them may be denounced, regiſtrate at the horn, and caption raiſed againſt them, according to the former ſtiles, *mutatis mutandis*.

If the ſuperior will voluntarily enter, and not ſuſpend the appriſer, then the charter would be drawn as follows.

CHARTA APPRETIATIONIS.

OMnibus hanc chartam, viſuris vel audituris, W. P. de ſuperior terrarum aliorumque ſubtus ſcript. cum pertinen. ſalutem, in domino ſempiternam, noveritis me dediſſe, conceſſiſſe, diſpoſuiſſe, et hac preſenti charta mea pro perpetuo confirmaſſe. Tenoreque preſentium, dare, concedere, diſponere, et hac preſenti charta mea, pro perpetuo confirmare, W. G. de et hæredibus ſuis, et aſſignatis quibuſcunque hæreditarie Totas et integras, terras de (hic inſere terras et decimas, etiamque ſi ſint decimæ incluſæ et quod de hoc ſuperiore tenent.) Quiquidem, terræ aliaque ſupra appretiata, cum pertinen. perprius hæreditarie pertinuerunt ad A. B. de C. D. de et I. B. de et cum certis reverſionibus aliiſque juribus et ſecuritatibus in

curia appretiationis, in nova seſſionis domo burgi de Edinburgh. Tenta coram I. H. nuncio, vicecomite in hac parte, ſpecialiter conſtituto, ejuſque collegis die menſis anno . ab illis omnibuſque aliis, ad eaſdem jus habentibus, vel pretendentibus, ad inſtantiam dicti W. G. ejuſque hæredum et aſſignatorum, quorumcunque legitime appretiatæ fuerunt pro ſolutione iis ſummæ monetæ Scotiæ pro principali, et ſummæ vicecomitis, feodi ad dictam principalem ſummam correſpondentis, ſalvo juſto calculo, in dictis utriiſque ſummis, ut in dicto decreto et proceſſu, appretiationis, dedata ſupra mentionat. viſo et approbato per dominos concilii et ſeſſionis, perque eos legitime proceſſo, reperto modo in dorſum hujuſmodi ſcript. die menſis anno ordinan. literas cornuationis contra me, tanquam ſuperiorem antedict. ad prefatum W. G. ejuſque antedictos in prædictis terris, aliiſque ſupra appretiatis cum pertinen. infeodandos, modo ſubtus mentionato latius continetur, et virtute cujuſquidem decreti appretiationis, nec non approbationis, hujuſmodi, et literarum cornuationis de ſuper ſequen. ego tanquam ſuperior ſupra ſcript. memoratum W. G. ſuoſque antedictos in terris aliiſque ſupra ſpecificatis infeodare die menſis anno ſub pœna cornuationis legitime mandatus fui ut in dictis literis et executionibus, earundem amplius recitatur tenendas et habendas, totas et integras prædictis terras domus, ædificia, molendinum, aliaque reſpective ſupra appretiata cum pertinen. ſæpe fato, W. G. ejuſque haeredibus et aſſignatis ſupra ſcriptis, de me, haeredibus et ſucceſſoribus meis in feodo et haereditate, in perpetuum per omnes ſuas rectas metas, antiquas et diviſas, pro ut jacent, in longitudine et latitudine. In domibus, aedficiis, hortis, pomariis, buſtis, planis, moris, mareſiis viis, ſemitis, aquis, ſtagnis, rivolis, pratis, paſcuis, et paſturis, molendinis, multuris, et earum ſequelis, aucupationibus, venationibus, piſcationibus, petariis, turbariis, carbonibus carbonariis, cuniculis cunicularíis, columbis columbariis, fabrilibus, braſinis, brueriis et gueſtis, lignis, tignis, lapicidiis lapide et calce, cum curiis et earum exitibus herezeldis bluidwitis et amerciamentis, cum (comuni paſtura, liberoque introitu et exitu, ac cum omnibus et ſingulis aliis libertatibus, commoditatibus, proficuis, aſiamentis, ac juſtis ſuis, pertinen. quibuſcunque, tam non nominatis quam nominatis tam ſubtus terra, quam ſupra terram procul et prope ad eaſdem vel aliquam earundem partem, aut portionem ſpectan. ſeu juſte ſpectare valen in futurum, libere, quiete, plenarie, honorifice, integre, bene et in pace, ſine aliquo impedimento, contradictione revocatione, aut obſtaculo aliquali reddendo inde annuatim prefatus W. G. ejuſque antedicti, mihi meiſque antedictis ſeu de firmas albe firmas aliaſque divorias, jura et ſervitia, (ſique ſint) ex predictis terris aliiſque, ſupra appretiatis, cum pertinen. nobis debitas et perſolubiles et in originalibus, infeofamentis, earum antedictam appretiationem content. pro omni alio onere exactione, queſtione demando ſeu ſervitio ſeculari quæ de predictis, terris aliiſque ſupra ſcriptis, cum pertinen. per quoſcunque juſte exigi poterint quomodo libet vel requiri, inſuper dilectis meis

et veſtrum cuilibet conjunctim et diviſim ballivis meis

meis in hac parte, ſpecialiter conſtitutis, ſalutem vobis precipio, et firmiter mando quatenus, viſis, praeſentibus, in dilate ſtatum ſaſinam, haereditariam pariter, et poſſeſſionem actualem, corporalem et realem, totarum et integrarum, praedictarum terrarum, molendinorum aliorumque, reſpective particulariter ſupra appretiat. una cum domibus, aedificiis, hortis, pomariis, partibus, pendiculis, et pertinen. earundem jacen. ut prefertur praenominato, W. G. vel ſuo certo acturnato latori preſentium per terrae et lapidis fundi, praedictarum terrarum, et lie clapp vel happer dict. molendinorum ut moris eſt, ſuper ſolo earundem iis traditionem et deliberationem, quod de me inde habetis juſte haberi faciatis, tradatis et deliberetis, et hoc nullo modo omittatis, ad quod faciendum vobis, et veſtrum cuilibet, conjunctim et diviſim, ballivis meis in hac parte, lantedictis meam planariam, et irrevocabilem tenore preſentium committo poteſtatem. Sub reverſione, tamen ſecundum tenorem, acti parliamenti, et ſub proviſionibus, et conditionibus inibi contentis. In cujus rei teſtimonium, huic praeſenti chartae meae; (ex chyrographo W. D. ſcribae in Edinburgo, manuque mea ſubſcript.) ſigillum meum proprium eſt appenſum, apud die menſis anno Domini milleſimo coram his teſtibus.

Nota, If the heritor of theſe lands be thirled to the ſuperior's mill, theſe words *cum molendinis multuris et earum ſequelis*, muſt be left out, and what elſe not in the former charter.

SASINA.

IN Dei nomine, Amen. Per hoc preſens publicum inſtrumentum, cunctis pateat evidenter, et ſi notum, quod anno, (*hereto follow the words of the former ſeiſin, till ye come to the 6 figure, page 51 and then ſay,*) Comparuit P. G. tanquam actornatus et eo nomine W. G. de (de cujus actornati poteſtate mihi notario publico ſubſcripto, ad effectum ſubtus ſpecificat lucide conſtabat) et acceſſit, cum alio diſcreto viro, D. R. de ballivo in hac parte, ſpecialiter conſtituto per W. P. de ſuperiorem terrarum, aliorumque ſubtus mentionat. virtute precepti ſaſinae ſub inſert. ad ſolum, praedictarum terrarum. Habens, et in ſuis manibus tenens, quandam chartam pergameno, ſcriptam, factam, datam et conceſſam, per dictum W. P. prefato W. G. ejuſque haeredibus et aſſignatis quibuſcunque, haereditarie de et ſuper, totis et integris terris de (hic inſere terras aliaque in charta contenta, ſed in ablativo caſu) et quaequidem terrae aliaque ſupra ſcripta, cum pertinen. perprius haereditariae pertinuerunt ad A. B. C. D. et I. B. et ab illis die menſis anno ad inſtantiam praedicti

praedicti W. G. legitime appretiatæ fuerunt, pro ſolutione ils ſummarum monetae in decreto appretiationis idcirca deduct. content. extenden. modo inibi expreſſo, ut in dicta charta dedata ſubtus ſpecificata (et dictum ſaſinae preceptum ſubinſertum in ſe continen.) latius continetur quamquidem, chartam dictam ſaſinae preceptum in ſe continen. praenominatus, P. G. tanquam actornatus, antedictus exhibuit, et preſentavit denominato. D. R. ballivo in hac parte, antedicto eundem requirens, quatenus ad executionem ejuſdem ſaſinae, precepti officiique ballivatus virtute hujuſmodi ſibi commiſſi debite procederet. Quiquidem ballivus ſciens et percipiens dictum deſiderium fore juſtum, rationique conſonans dictam chartam omni qua decuit reverentia accepit mihique notario publico ſubſcribenti, perlegendam, publicandam, et aſtantibus vulgari ſermone exponendam dedit, tradidit et deliberavit, et cujus ſaſinae precepti, tenor ſequitur et eſt talis. (hic inſere preceptum ut in charta, cum ſubſcriptionibus) et ſub hac forma ſic ſubſcribitur W. P. I. M. teſtis, I. G. teſtis. Poſt cujuſquidem, ſaſinae precepti, ſupra mentionat. perlectionem, publicationem, et explanationem prefatus D. R. tanquam ballivus, antedictus virtute, ejuſmodi et officii, ballivatus ſibi in hac parte, commiſſi ſtatum ſaſinam haereditariam, pariter et poſſeſſionem, actualem, realem, corporalem, totarum et integrarum, praedictarum terrarum, molendinorum, aliorumque reſpective, particulariter ſupra ſcript. cum domibus, aedificiis, hortis, pomariis, partibus, pendiculis, et pertinen. earundem jacen. ut prefertur praenominato W. G. per terrae et lapidis fundi, praedictarum terrarum, nec non clapp. dict. molendinorum, ſuper ſolo earundem, ut moris eſt dicto, P. G. tanquam ejus actornato antedicto traditionem, et deliberationem, ſecundum tenorem dictae chartae praeceptique ſaſinae inibi content. in omnibus dedit, tradidit, pariter et deliberavit (nemine contradicente nec in contrarium opponente. Super quibus, omnibus et ſingulis praemiſſis. dictus P. G. tanquam actornatus ſupraſcriptus unum vel plura inſtrumentum ſeu inſtrumenta ſibi fieri petiit. acta erant haec ſuper ſolo predictarum terrarum et molendinorum horas, inter meridiem, die, menſe, anno annoque regni ſupra mentionatis preſentibus, diſcretis et honeſtis viris, A. B. de C. D. de I. F. de A. G. incola in W. G. ſcriba in et A. H. meo ſervitore, cum diverſis aliis, teſtibus, ad praemiſſa ſpecialiter rogatis et requiſitis.

Nota, Some ſeiſins are given upon precepts, out of the chancellory, following on ſervices in lands holden of the king, and thir precepts are direct to the ſheriff of the ſhire, ſtewart of the ſtewartry, or baillie of the regality, where the lands lie, or being tenements, or acres, within burgh, or territory thereof, to the provoſt and bailies of the ſame, in which caſe ſince the clerks of court only give ſeiſin, I forbear to ſhew what denomination the judge-giver of the ſeiſin ſhould have therein, only the precept ought to be followed in this. Other ſeiſins are given upon precept

precept out of the chancellory likewiſe, but theſe precepts proceed upon charters of appriſing, charters of reſignation, and the like, and are uſually direct to the ſheriffs, ſtewarts, or bailies of the juriſdiction, within the which the lands lye, or to as ſheriffs, ſtewarts, or bailies in that part of the ſheriffdom, ſtewartry or regality of and on thir precepts any notary give ſeiſin, ſo that the notary muſt deſign the judge-giver of the ſeiſin, in manner following, *viz.* if the lands lye within a ſhire, only then call him *vicecomes in hac parte*, if within a regality *balivus in hac parte, regalitatis de* and if within a ſtewartry, *ſeneſcallus in hac parte, ſeneſcallatus de* but for ſeiſins given upon any ſubjects, charter or precept, the giver of the ſame is ever deſigned *balivus in hac parte*, (except in this one caſe where the ſheriff, ſtewart, or bailie of regality, refuſes to give ſeiſin on a precept out of the chancellory, on a ſervice, and the matter being repreſented to the Lords of ſeſſion, they give warrant to the director of the chancellory to grant a precept to a ſheriff, bailie of regality, or ſtewart in that part, with power to chuſe his own clerk, ſo that this perſon thus created or commiſſionate, is ſtiled and denominate *vicecomes, balivus regalitatis, vel ſeneſcallus, &c. in hac parte*, as well as thoſe to whom firſt direct.)

The next thing to be adverted to is, what can be the reaſon, that upon ſome charters there be ſeiſin given at one place (how many lands ſoever, and how diſcontiguous ſoever) and yet not ſo on other charters; but ſeiſin muſt be taken on each land, without there be an erection of all in one barony, lordſhip, or the like (in which caſe ſeiſin at the place appointed is ſufficient without any other particular ſeiſin) it is anſwered that the firſt is granted and done, by an expreſs diſpenſation from his majeſty, (and who only can, and by virtue of his prerogative royal, has power to grant ſuch) but for ſubjects, as they have no ſuch power or privilege, ſo they cannot grant it to others, and thereby a particular ſeiſin, muſt be taken, without there be an erection, or an expreſs diſpenſation, as ſaid is, originally granted by the king, in which caſe the perſon who has that privilege, may tranſmit the ſame as to whole or part: and becauſe there are divers things whereof ſeiſin may be taken, and each has its own particular ſymbol requiſite to be uſed in taking ſeiſin, therefore I have ſet them down here particularly, *viz.*

The ſymbol of lands, is earth and ſtone, the ſymbol of teinds, an handful of corn, the ſymbol of an annualrent, a penny money, the ſymbol of an annuity of victual out of lands, is an handful of corn, the ſymbol of an heritable office, is the court-book, the ſymbol of a patronage, is the keys of the kirk-door, the ſymbol of a ſalmon fiſh-

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ing, is net and coble, of a mill, clapp and happer, of ferry, the oar of a boat, of a well, a pint ſtoup full of water; but where lands are erected in dukedoms, earldoms, baronies, or the like, earth and ſtone is ſufficient for all, and ſome writers in the erection and diſpenſation (as appears by the after ſignatures, inſert theſe words) and that by tradition and delivery of earth and ſtone allenarly, without neceſſity of any other ſymbol to be uſed for that effect, wherein I judge there is no wrong, and yet but done *ex ſuper abundante*.

The next thing as to real execution to be conſidered, is, but what if the debtors (albeit on life) be not infeft in their eſtates, as heirs to their predeceſſors, only poſſeſs as apparent heirs, ſo that if they ſhould die unentered and infeft, the debtor ſhould have none to repreſent them, and conſequently may be defrauded of his juſt debt.

The way to ſecure the debt and obviate this inconvenience, is to regiſtrate the bonds, and raiſe a ſpecial charge thereon, and charge them to enter heirs in ſpecial to their predeceſſors who died laſt veſt and ſeiſed in the lands, and thereafter compriſe from them as lawfully charged, which is as ſufficient as if they were infeft; and ye are to proſecute the ſame, in the order and method following, and becauſe it is concluded formerly, that the matter was ſuſpended and diſcuſſed, the cautioner in the ſuſpenſion as a perſon judged not infeft, is alſo taken alongſt.

Letters of Special Charge to enter Heir.

GEORGE, by the grace of God to meſſengers, foraſmuchas it is humbly meant and ſhown to us by W. G. of aſſignee after ſpecified, that where A. B. as principal, and C. D. as cautioner for him, by their bond dated the (hereto inſert the narrative of the horning at the ſame complainer's inſtance againſt thir perſons, and their cautioner in the ſuſpenſion, till ye come to letter Q. page 24. and then ſay) and albeit it be of verity that the foreſaid ſums of money, be as yet truly addebted and reſting, owing, and unpaid, and that the ſaid complainer, as aſſignee foreſaid, has oft and divers times deſired and required the ſaid A. B. C. D. and I. B. principal and cautioners foreſaid, to have made payment to him thereof, nevertheleſs they not only wrongouſly refuſe, poſtpone, and defer to do the ſame, but alſo, in manifeſt defraud, hurt, and prejudice of him thereanent, they wrongouſly lye forth, and will not enter themſelves heirs in ſpecial to the deceaſed W. B. father to the ſaid A. B. and to G. D. father to the ſaid C. D. and A. B. father to the ſaid I. B. in all and ſundry the lands, heritages, tenements, and others *reſpective* after ſpecified, *viz.*

viz. (leave blank for the lands) wherein they died laſt veſt and ſeiſed as of fee at faith and peace, and wherein the forenamed perſons may purchaſe, procure, and obtain themſelves duly and lawfully ſerved, retoured, entered, infeft, and ſeiſed as heirs in ſpecial to them; to the effect the ſaid complainer may have all action proceſs and execution of appriſing, and others of the law competent, direct, led, raiſed, uſed and execute againſt them, and the ſaid lands, and others above ſpecified, for payment to him as aſſignee foreſaid, of the foreſaid ſums of money *reſpective* above mentioned, addebted by them to him in manner above expreſſed: wherefore neceſſary it is to him, to have thir our letters direct at his inſtance againſt them, in manner and to the effect after ſpecified, as is alledged, Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. C. D. and I. B. perſonally, or at their dwelling-places, to enter themſelves heirs in ſpecial, to their ſaid deceaſed fathers, in all and ſundry the lands, tenements, and others particularly and generally above mentioned, wherein they died laſt veſt and ſeiſed in manner foreſaid, and to obtain the full heritable, irredeemable, and undoubted right thereof eſtabliſhed in their perſons, and that within forty days, conform to act of parliament, to the effect above ſpecified, with certification to them, if they fail, the ſaid complainer ſhall have ſicklike action, proceſs, and execution of appriſing, and others of the law competent, direct, led, raiſed, uſed, and execute at his inſtance againſt them as lawfully charged, to enter heirs in ſpecial, as ſaid is, and the ſaid lands and others above mentioned, as he might have againſt them, if they were lawfully ſerved, retoured, and infeft as heirs foreſaid in ſpecial, to their ſaid deceaſed fathers therein, in manner above expreſſed, notwithſtanding they will fully lye forth, and will not enter in manner foreſaid; according to juſtice as ye will anſwer----

Ex deliberatione Dominorum Concilii.

Thir letters being execute, and the days elapſed, letters of appriſing would be raiſed, as follows.

Letters of Appriſing on a Special Charge to enter Heir.

GEORGE, to meſſengers our ſheriffs foraſmuchas, it is humbly meaned and ſhown to us, by W. G. of that where (here to take in the narrative of the letters of ſpecial charge, till ye come to letter Q. and then ſay) and albeit it be of verity, that the foreſaid ſums of money, principal, annualrents, and expences *reſpective* above ſpecified, be as yet truly addebted and reſting, owing, and unpaid, and that the ſaid complainer oft and divers

times deſired and required the ſaid A. B. C. D. and I. B. to have made payment to him thereof, nevertheleſs they not only wrongouſly refuſed, poſtponed, and deferred to do the ſame, but alſo they, in manifeſt defraud, hurt, and prejudice of him thereanent, wrongouſly lye forth, and would not enter themſelves heirs in ſpecial toW. B. G. D. and A. B. their fathers, in all and ſundry the lands, tenements, and others after ſpecified, *viz.* (leave blank for the lands) wherein they died laſt veſt ſeiſed as of fee at faith and peace, and wherein the ſaid A. B. C. D. and I. B. might purchaſe, procure, and obtain themſelves duly and lawfully ſerved, retoured, entered, infeft and ſeiſed as heirs in ſpecial to them, to the effect the ſaid complainer might have all action, proceſs, and execution of appriſing, and others of the law competent, direct, led, raiſed, uſed, and execute at his inſtance, againſt them and the ſaid lands, and others foreſaid, for payment to him of the ſaid ſums of money *reſpective* above ſpecified, addebted by them to him in manner above mentioned, whereupon the ſaid complainer having meant himſelf to our Lords of council and ſeſſion, he purchaſed and obtained letters of ſpecial charge to enter heir at his inſtance, againſt the ſaid A. B. C. D. and I. B. and by virtue thereof cauſed meſſenger, paſs upon the day of years, and lawfully command and charge them to enter heirs in ſpecial to their ſaid deceaſed fathers in all and ſundry the lands, tenements, and others *reſpective* above ſpecified, wherein they died laſt veſt and ſeiſed as ſaid is, and they may purchaſe and obtain themſelves duly and lawfully ſerved and infeft as heirs to them in manner foreſaid, and obtain the full heritable, irredeemable, and undoubted right thereof, eſtabliſhed in their perſons, within forty days, conform to act of parliament, to the effect above ſpecified, and with certification as is at length ſpecified, and contained in the ſaid letters of ſpecial charge to enter heir, as the ſame and executions thereof in themſelves alſo more fully is expreſſed, and true it is that the foreſaid ſpace of forty days, within the which the forenamed perſons were lawfully charged to enter heirs in ſpecial to their ſaid deceaſed fathers, in manner above expreſſed, is now come, bygone, and expired, and yet they have neither entered, nor obtained themſelves infeft as heirs, nor yet have they made payment to the ſaid complainer of the foreſaid ſums, X. whereof neceſſary it is to him, to have thir our letters of poinding and appriſing direct at his inſtance againſt them, as lawfully charged to enter heirs in ſpecial to their ſaid deceaſed fathers, as ſaid is, in manner and to the effect after ſpecified: and becauſe divers and ſundry queſtions, debates and controverſies may ariſe, (take in from letter R. page 28. before the will of the former letters of appriſing, till ye come to the will itſelf, and then ſay) Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, ſearch, ſeek, (here take in the will of the laſt letters of appriſing, till ye come to letter W. and then ſay) or that might be competent to them if they were entered heirs in ſpecial to their ſaid deceaſed fathers, in manner above expreſſed, or to their heirs, or aſſignees of, upon, or concerning the ſaid lands and others, to be appriſed with the pertinents, or any part or portion thereof, for whatſoever ſpace or ſpaces as yet to run, therein contained, together

gether alſo with all and ſundry reverſions, as well legal as conventional, legal of legal, and legal upon legal, bonds, promiſſes, and conditions of reverſions, if any be made, given, granted, promitted, provided, or of the law competent, to be made and granted by whatſomever perſon or perſons to the ſaid deceaſed W. B. G. D. and A. B. and their predeceſſors, cedents, and authors, or to the ſaid A. B. C. D. and I. B. if they were entered heirs in ſpecial to them, in manner foreſaid, or to any other perſon, or perſons to their behoof, or to their heirs, or aſſignees for redemption, looſing and out-quitting from whatſomever perſon or perſons of the ſaid lands and others foreſaid, with the pertinents, or any part or portion thereof, or of any annualrent or annualrents, or other dury yearly upliftable forth of the ſame, to be appriſed, (follow forth the reſt of thir letters, according to the former letters of appriſing, *de verbo in verbum*) page 29. according to juſtice as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, The former information for the meſſenger is ſufficient to execute thir letters, as alſo the ſchedule and procuratory in this appriſing, is the ſame with the former, only, whereas the former ſays only, againſt ſuch perſons, ye muſt add as lawfully charged to enter heirs in ſpecial to their deceaſed fathers, page 31. fig. 6. and would be named and deſigned as in the letters; and when ye come to theſe words competent to you, add, or that might be competent to you if ye were entered and infeft as heirs in ſpecial to your ſaid deceaſed fathers, as ſaid is, ſo that the next ſtep is the executions of appriſing.

EXECUTIONS of APPRISING.

UPON the day of 17 I I. H. meſſenger, one of the ſheriffs in that part, within lawfully conſtitute, by virtue, and at command of the within written letters of poinding and appriſing, raiſed at the inſtance of the within named W. G. of againſt the within named A. B. C. D. and I. B. as lawfully charged to enter heirs in ſpecial to their deceaſed fathers, particularly within named, paſſed to and within the ſaid A. B. his dwelling-houſe of and to the ſaid C. D. his dwelling-houſe of and to the ſaid I. B. his dwelling-houſe of where they, with their families, have their actual reſidence and manſion for the time, and thereafter the ſame days I paſſed to the ground of the lands and others after-ſpecified, *viz.* to the ground of the lands of lying within the ſheriffdom of and to the ground of the lands of lying within the ſheriffdom of

and ſheriffdom of and all pertaining heritably to the ſaid A. B. C. D. and I. B. at leaſt to their deceaſed fathers, and wherein they were lawfully charged to enter, and to obtain themſelves infeft as heirs in ſpecial to them, within forty days, conform to act of parliament, in manner within expreſſed, and to and within the haill mannor, places, houſes, biggings, and others, being thereupon ſo far as I could get entry or acceſs, and there, as well at and upon the ground of the ſaid lands and others, above and after ſpecified, with the pertinents, as within the ſaid dwelling-houſes, and remanent houſes, and biggings being thereupon, ſo far as I could get entry or acceſs, in manner foreſaid, I diligently ſearched and ſought (here take in the ſtile of the former executions *uſque ad finem*, page 34 only advert, that in the general clauſes, *viz.* with the ground, right, and property together with all bonds, obligations together alſo with all and ſundry reverſions; whereas, in the former execution, it only ſays competent to the ſaid A. B. C. D. and I. B. their predeceſſors, cedents, and authors, ye muſt add further in this execution, or that might be competent to them, if they were entered and infeft as heirs in ſpecial to their ſaid deceaſed fathers, in manner foreſaid, for, in effect, they have no right, not being infeft, and upon that account we appriſe what may be competent, if they were entered and infeft, which is the real and abſolute right of the lands.

CLAIM *of* APPRISING *on a Special Charge to enter Heir.*

GOOD men of inqueſt, unto your wiſdoms humbly ſheweth, W. G. of that where (here take in the narrative of the preceeding letters of appriſing, till ye come to letter X. and then add,) likeas I having meant myſelf to the Lords of council and ſeſſion, I accordingly purchaſed and obtained letters of poinding and appriſing at my inſtance againſt them, as lawfully charged to enter heirs to their ſaid deceaſed fathers, in manner foreſaid, by virtue and at command whereof, I cauſed I. H. meſſenger, one of the ſheriffs in that part thereby ſpecially conſtitute, paſs, upon the days of to and within the ſaid A. B. (here follow out the whole tenor of the executions, only in the claim, ye muſt ſpeak of the meſſenger and his actings in the third perſon, becauſe it is the party himſelf that ſpeaks therein, and not the meſſenger, and anent which look the former claim, and what obſerved thereanent; as alſo, whereas in the petitory part, ye ſay that ye would appriſe from the ſaid A. B. C. D. and I. B. ye muſt here add, as lawfully charged to enter heirs in ſpecial to their ſaid deceaſed fathers, in manner above expreſſed; and thereafter follow out the concluſion of the other claim, verdict of the inqueſt, and all.

ACTS

ACTS of COURT.

The former acts of court is a ſtile ſufficient for thir, only at letter H. add thir words as lawfully charged to enter heirs in ſpecial to W. B. of G. D. of and A. B. of their fathers within forty days, conform to act of parliament.

DECREET of APPRISING *on a Special Charge.*

CUria appretiationis terrarum aliorumque ſubtus ſcript. cum pertinen. tenta in prætorio, ſeu nova ſeſſionis domo burgi de Edinburgh. die menſis anno Domini coram diſcreto viro I. H. nuncio vicecomite in hac parte ſpecialiter conſtituto ejuſque collegis, ad inſtantiam W. G. de contra A. B. C. D. et I. B. tanquam legitime mandatos ad haeredes in ſpeciali intrandos quondam W. B. de G. D. de et A. B. de eorum patribus virtute literarum, namationis et appretiationis ſub ſigneto regio, ex deliberatione dominorum concilii et ſeſſionis ad hunc effectum dat. et direct. diſpenſationem, tam penes locum quam tempus vacantiarum (ſi contigerit) in ſe continen. modo reſpective ſubtus mentionato.

CURIA LEGITIME AFFIRMATA.

TO all and ſundry whom it effeirs to whoſe knowledge thir preſents ſhall come, I I. H. meſſenger, ſheriff in that part foreſaid, and judge in this preſent proceſs, and decreet of appriſing under-written, ſpecially conſtitute, greeting, forasmuchas our ſovereign Lord George III. by the grace of God, king of Great Britain, France and Ireland, defender of the faith, his majeſty's letters of poinding and appriſing after ſpecified, given under his highneſs's ſignet, by warrant of the Lords of council and ſeſſion, purchaſed and raiſed at the inſtance of the ſaid W. G. purſuer againſt the ſaid A. B. C. D. and I. B. defenders, as lawfully charged to enter heirs in ſpecial to their ſaid deceaſed fathers, were direct to I. H. meſſenger, me or any other meſſenger at arms, and our collegues one or more conjunctly and ſeverally, mentioning, that where (here inſert the narrative of the letters of appriſing immediately preceeding till ye come to the will, calling the complainer

complainer always the purſuer, and ſpeaking ſtill in the preterite time, and including ſtill thir words, as was alledged, and thereafter in lieu of the will ye are to ſay,) commanding and charging, therefore the ſaid I. H*a*. meſſenger, me, or any other meſſenger at arms, and our collegues, one or more conjunctly and ſeverally, to paſs, and in his majeſty's name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind, and diſtrenzie the ſaid A. B. C. D. and I. B. their readieſt goods, gear, (here inſert the will of the letters, till ye come to according to juſtice, only call the complainer purſuer,) and whereas the letters bear that ye denounce that ye warn, that ye fence courts in lieu thereof, to ſay in the decreet, to denounce to warn to fence courts in the infinitive mood, and whereas the letters ſay to be appriſed before you and your collegues within the new ſeſſion-houſe of Edinburgh the day of to ſay in the decreet, to be appriſed before the ſaid I. H*a*. meſſenger, me, or any other meſſenger at arms, and our collegues this preſent day and place, in the hour of cauſe and thereafter when ye come to according to juſtice ſay, by virtue and at command, of the which letters of poinding and appriſing above written, the ſaid I. H*a*. meſſenger one of the ſheriffs in that part, thereby lawfully conſtitute, paſſed upon the days of 17 years, to and within the ſaid A. B. C. D. and I. B. their dwelling-houſes of where they with their families had their actual reſidence and manſion for the time, and thereafter the ſame days, the ſaid meſſenger paſſed to the ground of (here inſert the executions, with the alterations mentioned in the former decreet of appriſing at letter K. page 41. and when ye come to, for the more verification, leave off and ſay) as the ſaid letters of poinding and appriſing, and executions thereof duly made, ſtamped, and ſubſcribed by the ſaid meſſenger, at more length proports: and ſicklike I the ſaid I. H. meſſenger, by virtue of the ſaid letters of poinding and appriſing, and at command thereof, and in name and authority foreſaid, paſſed upon the ſaid day of (the ſame being the day appointed, for leading and deducing of the ſaid appriſing) and lawfully warned the haill perſons of inqueſt (here take in all of the former decreet of appriſing from figure 6 till ye come to figure 7, and then ſay) together with the foreſaid letters of ſpecial charge to enter heir, and executions thereof with the (4) foreſaid letters of poinding and appriſing, and executions of the ſame, and letters of procuratory above mentioned, all of the dates, tenors, contents, and regiſtrations above expreſſed, and upon production of the ſaid writs, only neceſſary to have been produced in the ſaid appriſing for verification of the ſaid claim, the ſaid A. M. as procurator foreſaid, aſked and took inſtruments, and the ſaid A. B. C. D. and I. B. defenders, and all others, having or pretending to have intereſt in the ſaid matter, being all lawfully warned of before, in manner and to the effect foreſaid, and none compearing to object againſt the ſaid appriſing, the ſaid procurator alſo thereupon, aſked and took inſtruments, and deſired proceſs thereupon (here follow forth all after figure 8 in the former decreet of appriſing, till

ye

ye come to figure 9, and then ſay, as lawfully charged to enter heirs in ſpecial to their ſaid deceaſed fathers, in manner above expreſſed, their heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, to and in favour of the ſaid purſuer, his heirs and aſſignees whatſoever heritably, all and haill (here inſert all in the executions of appriſing from the text word, *denounced* till ye come to the words, *to be appriſed*, alſo uſually written in text letters, only in caſe the denunciation bear the particular bounding of tenements, acres, or the like, ye may forbear in this place to inſert the bounding at length, and in lieu thereof, only lying and bounded in manner foreſaid) upon the which appriſing and deliverance thereof above written, the ſaid A. M. as procurator foreſaid, aſked and took inſtruments, and immediately thereafter I the ſaid I. H. meſſenger, as judge and ſheriff in that part foreſaid (here follow forth the reſt of the former decreet of appriſing from figure 10 till ye come to figure 11 and then ſay) freely in all reſpects as the ſaid deceaſed W. B. G. D. and A. B. held the ſame at any time in their lifetimes before their deceaſes, or as the ſaid A. B. C. D. and I. B. their ſons, held, holds, or might have holden the ſame, if they were entered and infeft as heirs in ſpecial to them in manner above expreſſed, or as any other their predeceſſors, cedents, and authors, or one or other of them held the ſame before the ſaid appriſing, after the form and tenor thereof, and act of parliament made anent appriſing of lands, and others for debts, in all points. With full power to the ſaid purſuer, and his foreſaids, to intromit with, uplift, aſk, crave, and receive the foreſaid mails, farms. (Here follow forth the reſt of the former appriſing *uſque ad finem*, there being no alteration at all.)

Nota, If there was a horning raiſed, and charge given, let it be marked produced at figure 7 in the decreet of appriſing, thus with the horning and executions: and this decreet being duly allowed, according to act of parliament. The next thing to be conſidered, is, whether the lands be holden of the king or of a ſubject, and becauſe brevity is intended in either of the caſes, I ſhall not ſet down the forms of either at length, only ſuppoſing there may be lands holden of the king, as alſo lands holden of a ſubject, (as is before ſaid) I ſhall only diſcriminate the caſe thus betwixt this and the former ſtile, and to diſcourſe firſt of ſuch lands as hold of his majeſty (otherways than burgage); there is no differ in the ſignature or precept thereon except this one point, *viz.* whereas, in the former ſignature it is ſaid, which lands and others above appriſed, with the pertinents pertaining heritably of before to the ſaid A. B. C. D. and I. B. ye muſt ſay, pertained heritably of before to the deceaſed W. B. G. D. and A. B. and were lawfully appriſed from A. B. C. D. and I. B. as lawfully charged to enter heirs in ſpecial to them, and then follow forth the reſt of the ſignature, and for ſuch lands as hold of his majeſty burgage, or of a ſubject in the horning, there is nothing to be altered except theſe two points, *viz.* 1. Whereas in the narrative ye ſay, that the complainer obtained, lawfully appriſed from A. B. C. D. and I. B. all and haill ye muſt add from ſuch perſons as lawfully charged to enter heirs in ſpecial, to the deceaſed W. B. G. D. and A. B. their fathers. 2. In the words of the will to be holden of ſuch a ſuperior, ſicklike and as freely, *&c.* ye muſt follow the words of the decreet of appriſing, for in this point the two decreets vary.

The

Thus having diſcuſſed perſonal execution, as alſo real execution inter vivos, *the next thing propoſed is perſonal and real execution* inter vivum et mortuos, *and how the creditor ſhall ſettle and eſtabliſh either by law; and becauſe there may be a ground for both or not, as the appearing heirs will repreſent (or not) their predeceſſors, therefore I ſhall in method diſcuſs both, and firſt as to what the Creditor is to uſe in caſe of repreſentation; in order to which ye muſt raiſe letters of*

General Charge to enter Heir againſt the appearing Heirs of the Debtors deceaſed.

GEORGE, *&c.* to meſſengers foraſmuchas it is humbly meant and ſhown to us by W. G. of that where the ſaid complainer has divers and ſundry actions and cauſes to intent, move, proſecute, follow forth, and purſue at his inſtance, as well before our Lords of council and ſeſſion, as other inferior judges within this our realm, againſt W. B. eldeſt lawful ſon and appearing heir to the deceaſed A. B. of and G. D. of eldeſt lawful ſon and appearing heir to the deceaſed C. D. of and I. B. eldeſt lawful ſon and appearing heir to the deceaſed A. B. of and their tutors and curators for their intereſts, for payment and ſatisfaction to him, for himſelf as aſſignee, and otherwiſe, having right from divers and ſundry perſons of certain debts and ſums of money, addebted, reſting, and owing to him and his authors, from whom he has right by their ſaid deceaſed fathers, and as for implement and fulfilling to him of certain contracts, diſpoſitions, and other writs and evidents paſſed betwixt their ſaid deceaſed fathers and the ſaid complainer, and his ſaid authors thereanent, and decreets recovered thereupon, as the ſame in themſelves more fully is expreſſed: and albeit, it be of verity that the ſaid complainer has oft and divers times deſired and required the ſaid W. B. G. D. and I. B. appearing heirs foreſaid, and their tutors and curators, if they any have, for their intereſts to have made payment to him of the foreſaid ſums, and to have fulfilled to him the ſaid writs and evidents: nevertheleſs, they not only wrongouſly refuſed, poſtponed and deferred to do the ſame, but alſo, in manifeſt defraud, hurt, and prejudice of the ſaid complainer thereanent, they wilfully lye forth and will not enter the ſaid W. B. G. D. and I. B. heirs to their ſaid deceaſed fathers, to the effect the ſaid complainer may intent, proſecute, follow forth, and purſue the foreſaid actions and cauſes againſt them, and their ſaid tutors and curators for their intereſts, and ſuch other actions and cauſes as he has to lay to their charge, or as he might have laid to the charge of the ſaid deceaſed A. B. C. D. and I. B. at any time in their lifetimes, before their deceaſe, or, as if they were yet in life, for payment to him of the foreſaid ſums, and implement and fulfilling to him

of

of the ſaid writs and evidents; wherefore, neceſſary it is for him to have thir our letters direct at his inſtance againſt them, by deliverance of our ſaid Lords of council and ſeſſion, in manner and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid W. B. G. D. and I. B. perſonally, or at their dwelling-places, and their tutors and curators, for their intereſts, by open proclamation at the market-croſs of and other places needful to enter the ſaid W. B. G. D. and I. B. heirs to their ſaid deceaſed fathers, within forty days, conform to act of parliament, to the effect above ſpecified, with certification to them, if they fail, the ſaid complainer ſhall have ſicklike action, proceſs, and execution againſt them, and their ſaid tutors and curators, for their intereſts, as he might have againſt them, if the ſaid W. B. G. D. and I. B. were entered heirs to their ſaid deceaſed fathers, notwithſtanding they wilfully lye forth and will not enter themſelves heirs to them, in manner above expreſſed, or as he might have had againſt their ſaid deceaſed fathers at any time in their lifetimes, before their deceaſe, or as if they were yet in life, for payment and ſatisfaction to him of the ſaid ſums, and implement and fulfilling to him of the ſaid writs and evidents: according to juſtice, conform to act of parliament, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Note, Thir letters of general charge are only raiſed when the creditor cannot prove any other paſſive title againſt the debtor's repreſentatives, as that he is heir ſerved and retoured, or has accepted of a precept of *clare conſtet* from the ſuperior, and thereupon infeft (which is equivalent) or that he intromitted with the defunct's heirſhip, goods, *titulo lucrativo*, or that being *alioque ſucceſſurus*, he accepted of a diſpoſition from the defunct of his eſtate, *poſt contractum debitum*, or that he is executor confirmed, and ſo forth. But when any perſon has occaſion to raiſe the like letters, the ſubſequent animadverſions would be conſidered, and particular information had thereanent. And 1. Whether the heirs be out of the country or not, for if they muſt be charged at Edinburgh croſs, and at the pier of Leith, and the letters would bear an expreſs warrant for that effect. 2. What heirs the defuncts have, for ſome have heirs of their own body, and thoſe may be male or female, and if male it is more clear, but if only female, then it would be known, whether the eſtate be to the heirs whatſomever, or heirs male, or tailzie, for if to the heirs whatſomever, then the daughters muſt be charged, and if otherwiſe, the other heirs muſt be charged, as alſo the heirs of line, (ſeeing they muſt be firſt diſcuſſed) and likewiſe there may be heirs of proviſion and conqueſt, as the heirs of a firſt, ſecond,

ſecond, or third marriage, and if all of them ſhould occur, they muſt be all charged, for albeit the general heir, *viz.* the heir of the firſt marriage, be obliged to relieve the heirs of a ſubſequent marriage (being in a manner creditors to the firſt) yet all of them will, *primo loco*, be liable to the common creditor for his juſt debt, and then let them ſeek for relief *inter metipſos*, as accords.

But to proceed, the general charge being raiſed againſt all concerned, and being execute upon the days therein mentioned, *viz.* forty againſt thoſe in the country, and on ſixty againſt theſe forth thereof: the next thing to be done, is, to purſue the heirs for the debt before the Lords or inferior judges, and this purſuit muſt be an action of regiſtration (in caſe the bond be not regiſtrate) or if regiſtrate, an action of transference, but there being no requiſition appointed by the bond (whereby the debt is due) before payment, a ſummons may be raiſed for the debt ſummarily, and the debt being proven by writ, and the paſſive title againſt the defenders, or the paſſive title being referred to the defender's oath, or otherwiſe legally proven, the ſummons may be alſo privileged on ſix days (parties being within the country) and a ſtile of which three ſummonſes of regiſtration, transference and payment, ye will find amongſt the other ſtiles of ſummonſes, likeas, on thir ſummonſes, there may be inhibition and arreſtment raiſed, and there being decreets thereafter obtained on the ſame, the inhibition will be as ſufficient as if raiſed on the decreet, but if no decreet follow, it is thought they will be to no purpoſe, yea albeit a ſentence paſs on another ſummons, for the ſame very debt, and this inhibition and arreſtment being a part of the method propoſed, is here ſet down.

Inhibition on a depending Action, containing Arreſtment.

GEORGE, &c. to meſſengers foraſmuchas it is humbly meant and ſhown to us by W. G. of that where the ſaid complainer has ſummons and action intended, and depending at his inſtance before our Lords of council and ſeſſion, againſt W. B. as ſon and heir ſerved and retoured to the deceaſed A. B. of his father, and G. D. as ſon and heir, ſerved and retoured to the deceaſed C. D. of his father, and I. B. as ſon and heir ſerved and retoured to the deceaſed A. B. of his father, and upon the remanent paſſive titles, and their tutors and curators for their intereſt, touching the decerning the ſaid W. B. G. D. and I. B. upon the paſſive titles above ſpecified,

ſpecified, or one or other of them, and their ſaid tutors and curators for their intereſt, by decreet of our ſaid Lords to make payment to the ſaid complainer of the ſum of Scots money of principal, of expences, and annuals of the ſaid principal ſum of all years and terms bygone, reſting, owing, unpaid; and ſicklike yearly and termly in time coming, during the not-payment thereof, (the terms of payment of the ſame being firſt come and bygone) conform to a bond granted by the ſaid deceaſed A. B. as principal, and the ſaid C. D. as cautioner for him, conjunctly and ſeverally, to G. D. thereupon, of the date the day of years, and aſſigned by him to the ſaid complainer, upon the day of years, and to a decreet of ſuſpenſion, recovered at his inſtance as aſſignee foreſaid, againſt them in the ſaid matter, before the ſaid Lords the day of years, and an act of caution ſubſcribed by the ſaid deceaſed A. B. as cautioner for them in the ſaid matter, the time of their ſuſpending, dated the day of years, as the ſaid ſummons and action duly execute, ſhown to the ſaid Lords, has teſtified, and the ſaid W. B. G. D. and I. B. and their ſaid tutors and curators, knowing perfectly, that they will ſuccumb in the foreſaid action, and that the ſaid complainer will prevail and obtain decreet *condemnator* againſt them thereintil, they (in manifeſt defraud, hurt, and prejudice of him thereanent) intend (as he is informed) to ſell, annailzie, wadſet, diſpone, reſign, renounce, dilapidate, and put away all and ſundry the ſaid W. B. G. D. and I. B. their lands, heritages, (hereto follow forth the reſt of the former inhibition, till ye come to the will, and then ſay) Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority inhibit and diſcharge the ſaid W. B. G. D. and I. B. perſonally, or at their dwelling-places, and their ſaid tutors and curators for their intereſts, by open proclamation, at the market-croſs of and other places needful, that they, on no ways ſell, annailzie, wadſet, diſpone, reſign, renounce, dilapidate, or put away any of the ſaid W. B. G. D. and I. B. their lands, heritages, annualrents, liferents, reverſions, mills, woods, fiſhings, tacks, ſteedings, rooms, poſſeſſions, or others pertaining and belonging to them, nor make or grant any private or public alienations, diſpoſitions, wadſets, aſſignations, reſignations, renunciations, nor others, rights or ſecurities thereof, to no perſon nor perſons, nor contract, nor take on debts, nor give no bond, or other ſecurity therefor, nor do no other fact or deed directly or indirectly in any ſort, whereby the right of the ſaid lands and others foreſaid may be any ways evicted, appriſed, or adjudged from them, in defraud, hurt, or prejudice of the ſaid complainer, anent the implement and fulfilling to him of the foreſaid decreet when obtained, and payment making to him of the ſums of money to be contained therein; and ſicklike, that ye, in our name and authority foreſaid, inhibit and diſcharge all and ſundry our lieges and others, whom it effeirs, by open proclamation at the market-croſs of and other places needful, that they on no ways preſume, nor take upon hand, under whatſomever colour, or pretext, to buy, block (hereto follow

forth the concluſion of the former inhibition, till ye come to according to juſtice, and then add the arreſtment, in the words following, *viz.* and alſo, that ye, in our name and authority foreſaid, fence and arreſt all and ſundry the ſaid W. B. G. D. and I. B. their readieſt goods, gear, corns, cattle, inſight, pleniſhing, horſe, nolt, ſheep, debts, ſums of money, mails and duties of lands, and others pertaining and belonging to them, wherever, or in whoſe hands the ſame may or can be apprehended, to remain under ſure fence and arreſtment at the inſtance of the ſaid complainer, ay and while ſufficient caution and ſecurity be found, acted in our books of council and ſeſſion, that the ſame ſhall be made forthcoming to him as accords of the law, according to juſtice, becauſe the Lords have ſeen the dependence above written execute, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, Albeit the foreſaid arreſtment be looſable on caution, yet there be other arreſtments that can neither be looſed or purged but by payment, *viz.* ſuch arreſtments as are raiſed on regiſtrate bonds or decreets, the concluſion whereof muſt be to remain under arreſtment, ay and while payment be made, and not till caution be found *ut ſupra*, and albeit the Lords, at parties deſire, ſometimes grant looſing of all arreſtments generally upon caution, not knowing that they are laid on by virtue of regiſtrate bonds or decreets, yet it is *periculo impetrantis*, and to no purpoſe, having its doom in the very boſom, *viz.* in the deliverance of the bill in thir words, *fiat ut petitur*, ſo being the ſame be not made by virtue of a decreet, becauſe ſuch a perſon is become caution, &c.

But to proceed, we ſhall ſuppoſe that arreſtment is both raiſed and execute, and ſo muſt be looſed, in which caſe the letters following is requiſite.

Letters of Looſing Arreſtment.

GEORGE, &c. to meſſengers foraſmuchas, it is humbly meaned and ſhown to us, by W. B. G. D. and I. B. and their tutors and curators for their intereſts, that where W. G. of has upon his pretended manner raiſed other letters, and therewith cauſed fence and arreſt in the hands of divers and ſundry perſons (the ſaid complainers debtors) all and ſundry goods, gear, debts, ſums of money, mails, farms, and duties of lands, and others pertaining and belonging to them, to remain under ſure fence and arreſtment, at the inſtance of the ſaid W. G. ay and while ſufficient caution and ſecurity be found acted in our books of council and ſeſſion, that the ſame ſhall be made forthcoming to him as accords of the law, and will not conſent to the looſing of the ſaid arreſtment moſt wrongouſly and unjuſtly, conſidering it is of verity, that the

the said complainers were never debtors to the said W. G. in any sums of money whatsoever, by bond or otherways, which in the least might produce or afford ground for any such pretended arrestment: but the truth is, the same is raised and laid on out of mere malice, to expose the said complainers to charges and trouble; and yet notwithstanding thereof, the said complainers for obedience have instantly found sufficient caution, acted in our books of council and session, for making the said goods, gear, debts, sums of money, and others above specified pertaining to them, and arrested at the instance of the said W. G. in manner foresaid, forthcoming to him as accords of the law, and that for loosing all and sundry arrestments made or to be made thereon, at the instance of the said W. G. and therefore the foresaid pretended arrestment ought and should be loosed, and thir our letters direct for that effect in manner after specified, as is alledged. Our will is herefore, and we charge you straitly, and command, that incontinent thir our letters seen, ye pass, and in our name and authority, loose the foresaid pretended arrestment, made and laid on at the instance of the said W. G. upon the foresaid goods, gear, debts, sums of money, mails, farms, profits, and duties of lands, and others *respective* above specified, pertaining to the said complainers, in manner foresaid, and how oft any such pretended arrestment be made or laid on upon the same, at the instance of the said W. G. hereafter; that ye, in our name and authority foresaid, loose the same as oft of new again, upon the foresaid caution already found in the said matter, and that ye intimate the loosing of the said arrestment to the said W. G. personally, or at his dwelling-place, and deliver to him a copy subscribed with your hands, or affix and leave the same in the lock-hole of the most patent gate or door of the said dwelling-house, or deliver the same to his wife or servants in his name, containing the day of the loosing of the said arrestment, witness present at the loosing thereof, and cautioner found therein, their names, sirnames, and designations, that no ignorance of the premisses may be pretended, otherways, the foresaid pretended arrestment to stand and remain unloosed, notwithstanding of the foresaid caution found in the said matter in manner above expressed, according to justice; so being the foresaid arrestment be not made by virtue of a decreet, because P. D. of is become cautioner for the complainers, to the effect above mentioned, as ye will answer, *&c.*

Ex deliberatione Dominarum Concilii.

But to begin where we left, as to the pursuit against the heirs for their father's debt. The next thing to be done, is to execute the summons aforesaid, against the said heirs and their tutors and curators, according to the warrant; which being done, and the day of compearance elapsed, then the summons must be called, and if none appear, decreet is had for null defence; but if any compear for the defender, the process is marked by the clerk, and thereafter the same with the grounds thereof given out to the adverse advocate

advocate to ſee, who returning the ſame, the caſe is to be inrolled, and both parties compearing, in which inſtance, if the defender cannot elide the debt, they muſt either ſuffer decreet to paſs againſt them, as lawfully charged to enter heirs (if the purſuers inſiſt on that paſſive title) or elſe (*res* being *integra*) renounce to be heirs; in which caſe adjudication follows, (as afterwards appears) but concluding here the defuncts to be of opulent fortunes, and that the defenders will not renounce, but on the contrary ſuffer decreet to paſs, then perſonal and real excution may enſue thereon, as follows: And firſt as to perſonal execution, which begins with

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Horning and Poinding on a Decreet before the Lords.

GEORGE, *&c.* to meſſengers foraſmuchas, our lovit W. G. of obtained a decreet at his inſtance, before our Lords of council and ſeſſion, upon the day and date of thir preſents, againſt (6) W. B. as ſon, and lawfully charged to enter heir to the deceaſed A. B. of his father, G. D. as ſon, and lawfully charged to enter heir to the deceaſed C. D. of his father, and I. B. as ſon, and lawfully charged to enter heir to the deceaſed A. B. of his father, conjunctly and ſeverally, and their tutors and curators (if they any have for their intereſts) decerning and ordaining them (for the cauſes therein ſpecified, to make payment to the ſaid W. G. as aſſignee after ſpecified) of the ſum of Scots money as principal money foreſaid of expences, and annuals of the ſaid principal ſum, of all years and terms bygone, reſting, owing, unpaid, and ſicklike yearly and termly in time coming, during the not-payment thereof, (the terms of payment of the ſame being firſt come and bygone) conform to a bond granted by the ſaid deceaſed A. B. as principal, and the ſaid C. D. as cautioner for him, conjunctly and ſeverally, to G. D. thereupon, of the date the day of 17 years, and aſſignation made by the ſaid G. D. to the ſaid W. G. of the ſame dated the day of years, and decreet of ſuſpenſion recovered in the ſaid matter before our Lords of council and ſeſſion, upon the day of years, and act of caution ſubſcribed by the ſaid A. B. as cautioner for the ſaid A. B. and C. D. the time of the obtaining of the foreſaid ſuſpenſion, dated the day of years, in manner ſpecified in the ſaid decreet (8) as the ſame of the date foreſaid, ordaining thir our letters to be direct thereupon in manner under written, at more length proports. (6) Our will is herefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid W. B. G. D. and

A. B.

A. B. conjunctly and severally, personally, or at their dwelling-places, and their tutors and curators, if they any have for their interests, by open proclamation at the market-cross of and other places needful, to make payment to the said W. G. of the foresaid sums of money foresaid of principal, and of the foresaid sum of money foresaid of expences, together with the annuals of the said principal sum of all years and terms bygone, resting, owing, unpaid; and sicklike yearly and termly in time coming during the not-payment thereof, (the terms of payment of the same being first come and bygone) after the form and tenor of the said decreet in all points, within fifteen days next after they be charged by you thereto (here follow forth the stile of the first horning in the book, till ye come to after the form and tenor before according to justice, and then say) after the form and tenor of the said decreet in all points, according to justice, &c.

Per Decretum Dominorum Concilii.

Nota, That albeit tutors and curators be charged for their interests, (seeing without they be discussed, or rather put in knowledge by a charge, the minors cannot suffer in law) yet they cannot be denounced to the horn, registrate thereat, or caption raised against them for the minors debt, (as may be against the minors themselves) nor yet can their goods be pounded, or their lands appriſed therefor.

And yet if a tutor be not only convened as tutor, but also as intromitter with the minor's estate, and that it be libelled against him that he has as much in his hands as will satisfy the creditor of the debt, *ex hoc posteriore titulo*, the tutor may be decerned to pay the debt, and consequently be denounced as well as charged, but this is not *tanquam tutor simpliciter*, *sed tanquam lucratus*: but such libels seldom occur, yet among the stile of summons it is found.

There is another thing to be adverted to, *viz.* What difference is there betwixt a horning raised on the Lords decreet, and on the decreet of an inferior judge? which ye may easily take up the stile of the former horning on the said Lords decreet, being first considered, for nothing alters save thir points. 1. Whereas the former says, forasmuchas W. G. obtained decreet , ye must in the other say, forasmuchas it is humbly meant and shown to us by W. G. of that whereupon the day of years, the said complainer obtained a decreet at his instance before the sheriffs of and his deputes, against W. B. (here take in the narrative of the former horning from figure (6) till ye come to figure (8) only say, whereas the former horning says, to make payment to W. G. say in the other, to the complainer, the other being *per decretum*, this by bill, and then say, as the decreet of the date foresaid in itself more fully pro-

ports,

ports, whereupon the ſaid complainer raiſed the ſaid ſheriff's precept, and by virtue thereof, cauſed charge the ſaid W. B. G. D. and A. B. and their ſaid tutors and curators to make payment to him of the ſaid ſums, within the ſpace, and under the pains contained in the ſaid precept, as the ſame duly execute and indorſed, ſhown to our Lords of council and ſeſſion, has teſtified; which precept and command whereof they have not, nor will not obey without they be compelled, as is alledged, and then follow forth the will of the former horning, till ye come to thir words, ſtill after the form and tenor, and in lieu of the former ſay, after the form and tenor of the ſaid decreet, and precept raiſed thereupon, and executions thereof in all points according to juſtice, becauſe the Lords have ſeen the precept above written execute, as ye will anſwer and conclude in lieu of *per decretum, ex deliberatione* ——

If the decreet be obtained before any other inferior judge than a ſheriff, then the precept will ſhow it, and nothing in that caſe is to be altered, except the denomination of the judge, viz. commiſſary, provoſt, and bailies of the burgh of ſtewart of the ſtewartry of or bailie of the regality of (for before thoſe, and the Lords of ſeſſion civil cauſes are only to be purſued (at leaſt on their decreets, only horning is granted, only advert that there is precept direct on all inferior decreets, except on burgh decreets, whereon if the horning be raiſed it muſt alter in this, *viz.* this on the magiſtrates decreet muſt ſay, as the ſaid decreet of the date foreſaid, ordaining execution to paſs thereupon, in manner therein ſpecified, and whereupon execution has followed, by one of the burgh-officers of the ſaid burgh, in manner ſpecified, in the executions of the ſame, ſhown to the Lords, has teſtified. Nevertheleſs the ſaid wrongouſly refuſe, poſtpone, and defer to make payment to the ſaid complainer of the ſaid ſums, albeit they have been oft and divers times deſired and required thereto, without they be compelled, as is alledged, and then follow forth the will of the other letters, only in the words after the form and tenor omit (precept raiſed thereupon, and in lieu thereof, ſay, charge given by virtue thereof) and after according to juſtice (inſert the becauſe on the back of the bill, and then conclude *ex deliberatione, ut ſupra*.

It would be adverted, that there is other judges inferior, that alſo meddle, and pronounce decreets in civil matters, (yet but trivials, as baron bailies, and bailies betwixt maſter and tenant, and the like, but no horning will be granted thereon, without there be a decreet of interpoſition of a higher judge.

No horning, or real execution can paſs upon bonds regiſtrate in inferior

rior books, or decreets recovered before inferior courts, unleſs a precept be raiſed thereon, and that a charge be given by virtue thereof, and it firſt expired.

There be divers natures of horning, beyond what is inſert in the preceeding ſtiles or obſerves, as hornings upon contracts, and the like, writs for fulfilling and performing of perſonal deeds and obligements, which to condeſcend upon in this current of a ſtile, were a labyrinth, and ſo are referred to the ſtiles apart.

But to proceed, thir hornings (whether upon a ſuperior or inferior decreets) being lawfully execute, and the days elapſed, the parties may be denounced, regiſtrate at the horn, caption, ſecond caption, and all other diligence may enſue thereon, according to the former ſtiles: to which ye are referred, with this alteration, that whereas the former captions mention the ſums to be contained in a bond made by ſuch perſons, (as in life) ye muſt ſay here made by the deceaſed ſuch perſons according to the tenor of the horning, and then add, as as alſo contained in a decreet, recovered at the ſaid complainer's inſtance, againſt the ſaid W. B. G. D. and I. B. as lawfully charged to enter heirs to their ſaid deceaſed fathers before upon the day of years.

If the party deſire inhibition on the foreſaid decreet, then the ſame is to bear the narrative of the horning raiſed thereon, till ye come till as the ſaid decreet, and then ſay, as the ſaid decreet of the date foreſaid, ſhewn to the Lords has teſtified, and thereafter ſay, and the forenamed perſons knowing perfectly, that the ſaid complainer is to ſuit all manner of execution, both perſonal and real againſt them, and their ſaid tutors and curators for their intereſts, they, in manifeſt defraud, hurt, and prejudice of him thereanent, intend (as he is informed) to ſell, annailzie, (here follow forth the ſtile of the inhibition on the dependence,) only in lieu of thir words in the will, anent the fulfilling to him of the decreet, when obtained, ſay (now ſince it is obtained) the fulfilling to him of the ſaid decreet, and payment making to him of the foreſaid ſums therein contained.

There is ſome other diligence in law, whereby men ſecure themſelves, and that is, by taking their debtors eſcheat, or liferent, or both upon a legal horning, the ſtile whereof is here omitted, becauſe all gifts are proſecute apart, only here know, that eſcheats do not fall upon general hornings, as that at a procurator fiſcal's inſtance, for confirmation of teſtaments, hornings at miniſters inſtance, againſt all and ſundry hornings,

hornings, againſt witneſs, and the like, but upon hornings for real debts and deeds preſtable or on criminal ſentences (where perſons are declared fugitives) and the like, and beſides ſingle eſcheats only fall when perſons are denounced at the croſs of the head burgh, where they dwell for the time (whether ſheriffdom, regality, or ſtewartry) and liferent-eſcheats falls only, when a perſon is denounced at the head burgh of the ſhire, or other juriſdiction where his lands and eſtate lies; ſo that if he hath lands in divers juriſdictions, if he be not denounced at all the croſſes, his eſcheat (I mean the liferent) only falls as to the lands within that juriſdiction where he is denounced, and it is not to be forgot, that the horning muſt be regiſtrate within fifteen days after denunciation, but alſo the regiſtration muſt be either in the general regiſters for all, or in each particular regiſter, where there is land belonging to the rebel, and, as in the declarator, the ſolemnities and formalities of the executions of the chargers, denunciation will be tried; ſo the party would advert that the meſſenger be formal in both, leaſt all the diligence be caſten and the gift fall in conſequence as has often been. There is alſo a denunciation at the croſs of Edinburgh, of any perſon as well outwith, (as within the ſhire) whereon only caption follows, but if he live within, and have lands, both ſingle and liferent eſcheats fall, and in the *interim* the denunciation ſecludes from *perſonam ſtandi in judicio*; but it is prevented by relaxation, duly regiſtrate.

Yet this privilege of denouncing any perſon at Edinburgh croſs (whether without the ſhire or not) is only introduced in favour of the city of Edinburgh, as the metropolitan of the kingdom, and none elſe, even as that clauſe in the period of all captions, both in civils and criminals, and if thir our letters be put to execution within the burgh of Edinburgh, that the concurrence of the magiſtrates thereof be required and had thereto, whereas no caption follows on denunciations at other croſſes, againſt any perſons (except that of the juriſdiction, within which the debtor reſides, as ſaid is) but allenarly on criminal denunciations) for wherever the juſtice court holds, there they declare fugitive and denounce) or on exchequer charges, for they denounce for the king's rents, and what elſe is *regium*, as captions and the like at Edinburgh-croſs, as the head-burgh of the kingdom, there being expreſs acts of parliament and exchequer for the ſame.

There is another diligence in law, by which men attain to payment, and that is by poinding of the debtor's moveable goods; which uſually is done by virtue of letters of horning, containing poinding, or by virtue

virtue of precept of poinding upon inferior decreets, after the day of the charge is elapſed; if, by virtue of the firſt, the goods be legally poinded, there is the leſs difficulty; but, if by virtue of the laſt, then this doubt may ariſe, *viz.* The meſſenger or officer comes to poind, and yet cannot, there being no patent doors or warrant to make any, and ſo muſt return *re infecta*: or is it in the power of an inferior judge to grant ſuch warrants, nor wants thoſe that poind by virtue of letters of horning, the ſame encounter, yet uſually they have letters of caption, and under pretext of ſeeking the rebel, they make open doors, and once patent, then upon the other letters they poind, which pretext the others want. But ſuppoſe that there be no letters of caption, the one or the other once going to poind, and finding no acceſs, and the party exhibiting the horning or precept, with the execution of *non acceſſas ad diſtringendum* to the Lords, they uſually grant the letters following, which we ſhall ſuppoſe to be on a precept, becauſe that moſt frequently occurs.

Letters of Open Doors.

GEORGE, &c. to meſſengers foraſmuchas it is humbly meant and ſhown to us by W. G. of that where upon the day of the ſaid complainer obtained a decreet at his inſtance, before the ſheriff of and his deputes, againſt decerning and ordaining them to make payment to him of the ſum of principal of expences and annuals of the ſaid principal ſum, of all years and terms bygone, reſting, owing, unpaid, and ſicklike yearly and termly in time coming, during the not-payment thereof, the terms of payment of the ſame being firſt come and bygone, in manner and for the cauſes ſpecified in the ſaid decreet, as the ſame of the date foreſaid, ordaining letters and executorials to be direct thereupon, in manner under written at more length proports. (2) Whereupon the ſaid complainer, not only raiſed the ſaid ſheriff's precept, and by virtue thereof, cauſed charge the ſaid to make payment to him of the foreſaid ſums contained in the ſaid decreet, within the ſpace, and under the pains contained in the ſaid precept, but alſo, after the ſaid charge was elapſed and expired, he cauſed A. H. meſſenger paſs upon the day of years, to the dwelling-houſes of where they reſide, and have their actual reſidence, to have poinded and diſtrenzied their readieſt moveable goods and gear for the ſaid ſums, but he could not have acceſs thereto, by reaſon of the lock-faſt doors, as

the ſaid precept and executions ſhown to our Lords of council and ſeſſion has teſtified; wherefore neceſſary it is to the ſaid complainer, to have thir our letters direct at his inſtance againſt them, in manner, and to the effect after ſpecified, as is alledged. Our will is therefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, fence, arreſt, apprife, compel, poind and diſtrenzie the ſaid their readieſt goods, gear, cattle, inſight, plenishing, horſe, nolt, ſheep, debts, ſums of money, and other moveable goods and gear poindable and diſtrenzieable, pertaining and belonging to them, where-ever the ſame may or can be apprehended, make penny thereof; and failing of the ſame, that ye apprife all and ſundry their lands and heritages, conform to act of parliament, to the avail and quantity of the ſaid ſums; and if need be, that ye make ſteeked and lock-faſt houſes, yeats and doors open and patent, and uſe our keys thereto, according to the order uſed and obſerved in the like caſes, and make the ſaid complainer completely paid of the ſaid ſums, after the form and tenor of the ſaid decreet, precept raiſed thereupon, and executions thereof in all points, according to juſtice, becauſe the Lords have ſeen the precept above-written execute, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

If the grounds of thir letters, by horning and poinding, and not a precept, then there is nothing to be altered, but only, whereas the one ſays, raiſed precept, the other muſt ſay, letters of horning containing poinding and arreſtment, and as oft as the word *precept* is mentioned, omit the ſame, and let the other be mentioned in lieu thereof; and withal, if the horning and poinding be raiſed on the Lords decreet, then, whereas ye ſay in the former letters as to the inferior decreet at more length proports, becauſe the precept is the warrant of the charge and poinding, and only produced, and not the decreet in this laſt caſe, ye muſt ſay, ſhown to the Lords, has teſtified for the ſame muſt be ſeen the time of the paſſing of the bill.

The next diligence remaining whereby a perſon may attain payment, is arreſtment, and this either is done by virtue of letters of arreſtment, raiſed upon a dependence, or by virtue of a precept on inferior decreets, or bonds regiſtrate in inferior books, or by virtue of letters of horning, containing poinding and arreſtment, or by virtue of letters raiſed on a bond, unregiſtrate, or if within burgh by virtue of a magiſtrate's immediate verbal warrant, which, *inter contives*, is ſufficient, the officer verifying his execution upon oath; and as to thoſe arreſtments upon dependences, unregiſtrate bonds, and by virtue of magiſtrates warrants, they are looſable upon caution, but for ſuch as are upon decreets, or regiſtrate bonds, (which in effect is alſo a decreet, becauſe the judge in whoſe books regiſtrate

ſtrate interpones his authority to it, and ſo is equivalent) they cannot be looſed, and in either of the caſes this muſt be the creditor's courſe to make the ſums arreſted effectual, *viz.* if the ſums arreſted be by virtue of a decreet, then ſummons muſt be raiſed for making arreſted goods forthcoming, either before the Lords, (if the arreſtment be made, by virtue of their own, or any other warrant) or before inferior courts (if by virtue of an inferior warrant done) and in this purſuit none is to be called but the party to whom the money belongs, and the party in whoſe hands arreſted, and the ſummons ye will find amongſt the other ſtiles of that nature; but if the arreſtment be not made by virtue of a decreet, but upon the other grounds aforeſaid, and ſo looſable on caution, and, *de facto* being looſed, and caution found, ye muſt alſo raiſe ſummons of the nature aforeſaid, only in this laſt caſe ye muſt convene the cautioner in the looſing of arreſtment in the ſummons, as well as the party whoſe ſums are arreſted, and in whoſe hands the arreſtment is made, and conclude payment againſt the cautioner, as againſt the perſon who owes the money arreſted, and the bond of caution would be extracted, and particularly libelled in the ſummons.

Yet it is not to be forgot, that before this proceſs be diſcuſſed or ſuſtained, there muſt be decreet had in the principal cauſe, conſtituting the debt for which arreſtment is made, and muſt be libelled.

There is another doubt that may ariſe in thoſe actions for making arreſted goods forthcoming, *viz.* albeit ſummons before the Lords reach perſons as well without as within the country, their authority being abſolute and univerſal, yet what ſhall be the creditor's courſe when his arreſtment is by virtue of an inferior warrant, as a precept, or magiſtrate's command, and when the forthcoming is purſued before an inferior court, and when the debtor is within another ſhire or juriſdiction, (then that where the perſon in whoſe hands the money is arreſted dwells) and conſequently cannot be cited or convened by virtue of that judge's precept, within whoſe juriſdiction the perſon in whoſe hands the money was arreſted, remains as ſaid is, albeit there be a neceſſity he be cited for his intereſt, it is anſwered, that the debtor without the country, or in another ſhire may be convened, by virtue of letters direct for that effect, by the Lords deliverance uſually called

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Letters in Supplement.

GEORGE, &c. to meſſengers ſhown to us by W. G. of that where, here inſert the narrative of the precept of arreſtment, I mean the tenor of the decreet, which is the ground thereof, as ye find it decerned

cerned in the letters for open-doors, till ye come to this mark or figure (2) and then ſay) whereupon the ſaid complainer raiſed the ſaid ſheriff's precept, and by virtue thereof cauſed charge the ſaid W. B. G. D. and I. B. and their ſaid tutors and curators for their intereſts, to make payment to him of the foreſaid ſums, within the ſpace, and under the pains contained in the ſaid precept, as alſo cauſed A. M. ſheriff-officer paſs upon the day of and lawfully fence, and arreſt in the hands of H. D. of the ſum of leſs or more addebted, reſting, and owing by him to the forenamed perſons, to remain under ſure fence and arreſtment at the inſtance of the ſaid complainer, ay and while he were paid of the ſaid ſums, contained in the ſaid decreet and precept raiſed thereupon, as the ſaid decreet, precept, and executions thereof, in themſelves more fully proport: Likeas, the ſaid complainer has raiſed ſummons, and intented action for making the foreſaid ſums ſo arreſted, forthcoming againſt the ſaid H. D. before the ſaid ſheriff of and his deputes, and in reſpect, that no proceſs can be ſuſtained in the ſaid action, until the ſaid W. B. G. D. and I. B. and their ſaid tutors and curators called therein for their intereſts, and that they being without the ſaid ſheriff's juriſdiction, cannot be convened by virtue of his precept: therefore neceſſary it is for the ſaid complainer, to have thir our letters direct at his inſtance againſt them, for convening them for their intereſts in the ſaid proceſs, and that in ſupplement of the ſaid ſheriff's precept, in manner after ſpecified; as is alledged: Our will is herefore, and we charge you, that ye (in ſupplement of the ſaid ſheriff's precept) lawfully ſummon, warn, and charge the ſaid W. B. G. D. and I. B. perſonally, or at their dwelling-places, and their tutors and curators if they any have, for their intereſts, by open proclamation at the market croſs of and other places needful, to compear before the ſaid ſheriff and his deputes, within their ordinary court-place, where they uſe to ſit for adminiſtration of juſtice, the day of or any other day or days to be appointed by them for that effect, in the hour of cauſe, to hear and ſee the premiſſes ſufficiently verified and proven, to be of verity; and being verified and proven, to hear and ſee the ſaid H. D. in whoſe hands the foreſaid ſums were arreſted, as ſaid is, decerned by the ſaid ſheriff and his deputes their decreet, to make forthcoming payment, and deliverance to the ſaid complainer of the foreſaid ſum of leſs or more, addebted, reſting, and owing by him to the forenamed perſons, and arreſted in his hands in manner foreſaid, at leaſt ſo much thereof as will ſatisfy and pay him of the foreſaid ſums of money, principal, annualrents, and expences *reſpective* above ſpecified contained in the ſaid decreet, after the form and tenor thereof, precept raiſed thereupon, and arreſtment made by virtue thereof in all points, or elſe to alledge before the ſaid ſheriff and his deputes a reaſonable cauſe why the ſame ſhould not be done, with certification to them, if they fail, the ſaid ſheriff and his deputes will proceed in the ſaid matter, and decern therein, according to the deſire and tenor of the ſaid

principal

principal libel, and ſummons raiſed againſt them, and the ſaid H. D. thereanent, in all points: according to juſtice, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Thir ſummons or letters in ſupplement muſt be execute on fifteen days, according to the nature of the principal ſummons, all inferior citations being on no fewer days, except within burgh, where fewer according to the cuſtom of the place are uſed.

If the parties cited for their intereſt be out of the country, then the citation muſt be at Edinburgh-croſs and pier of Leith, on ſixty days; and the letters muſt bear a warrant *ad hunc effectum*, thus, whereas in the narrative, it is ſaid, that they being without the juriſdiction, in this caſe, ye muſt ſay, without the realm, and in the will ye muſt ſay, perſonally, or at their dwelling-places, if they be within this realm, and if forth thereof, by open proclamation at the market-croſs of Edinburgh, and pier and ſhore of Leith, and their tutors and curators *ut ſupra*, &c.

This decreet for making arreſted goods forthcoming, being obtained, Letters of horning, and all other execution both perſonal and real may enſue thereupon, according to the former ſtiles, and are here omitted *brevitatis cauſa*, only that ye may know the ſtrain of the narrative of ſuch letters as are raiſed on ſuch decreets, I have here only ſet down a horning.

Horning and Poinding.

GEORGE, &c. to meſſengers foraſmuchas, it is humbly meaned and ſhown to us, by W. G. of that whereupon the day of laſt bypaſt, the ſaid complainer obtained a decreet at his inſtance, before the ſheriff of and his deputes, againſt H. D. of and W. B. G. D. and I. B. and their tutors and curators for their intereſt, for the cauſes therein ſpecified, decerning and ordaining the ſaid H. D. to make forthcoming payment and deliverance to the ſaid complainer, of the ſum of leſs or more addebted, reſting, and owing by him to the ſaid W. B. G. D. and I. B. and arreſted in his hands at the ſaid complainer's inſtance, at leaſt of ſo much thereof as will completely ſatisfy and pay him of the ſum of as principal, of expences, and annuals of the ſaid principal ſum bygone, reſting, owing, and unpaid, and in time coming during the not-payment thereof, reſting to the ſaid complainer by the ſaid W. B. G. D. and I. B. conform to a decreet obtained at his inſtance againſt them, as lawfully charged

to

to enter heirs to their deceaſed fathers, and on the remanent paſſive titles, and their ſaid tutors and curators their intereſts before the Lords of council and ſeſſion, upon the day of in manner ſpecified in the ſaid decreet, for making arreſted goods forthcoming, as the ſame of the date foreſaid, ordaining letters and executorials to be direct thereupon, in manner therein ſpecified, at more length proports: whereupon the ſaid complainer raiſed the ſaid ſheriff's precept, and by virtue thereof cauſed charge the ſaid H. D. to make payment to him of the foreſaid ſums, contained in the ſaid decreet, within the ſpace and under the pains contained in the ſaid precept, as the ſame duly execute and indorſed, ſhown to our Lords, has teſtified, which precept and command thereof, the ſaid H. D. has not, nor will obey without he be compelled; as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid H. D. perſonally, or at his dwelling-place, to make payment to the ſaid complainer, of the foreſaid ſum of leſs or more addebted, reſting, and owing by him to the forenamed perſons, and arreſted in his hands, in manner foreſaid; at leaſt ſo much thereof, as will completely ſatisfy and pay him of the foreſaid ſums of money, principal, annualrents, and expences *reſpective* above ſpecified, addebted to him by the forenamed perſons, in manner above expreſſed, after the form and tenor of the ſaid decreet, for making arreſted goods forthcoming, and precept raiſed thereupon, in all points, within fifteen days next after the charge, under the pain of rebellion (here follow forth the will of the former horning and poinding on an inferior decreet) according to juſtice, becauſe the Lords have ſeen the precept above written execute, as ye will anſwer, &c.

Ex deliberatione Dominorum Concilii.

It may be inquired here, what is the reaſon a definite ſum is not uſually arreſted, *viz.* the ſum of without thir words leſs or more, but indefinite the ſum of leſs or more, as alſo albeit the ſum be ſo arreſted, what is the reaſon that judges decern in the like manner, to make payment of the ſum of leſs or more it is anſwered, that the reaſon why the ſum is arreſted indefinite, with the words leſs or more, is, becauſe what is really owing, is not definitely known; and the reaſon why the judge ſo decerns, is, becauſe the party in whoſe hands the ſums are arreſted, does not compear to depone upon, what really reſting, which if he do, then the judge only decerns according to the depoſition; and it is not to be forgot, that if the ſum really deponed upon, be leſs than the ſum due to the arreſter, then the decreet ordains the defender only to pay that ſum in part of payment of what owing the purſuer, whereas in caſe of abſence both the words leſs or more is added in the decerniture, and the ſum arreſted, with the words leſs or more,

ordained

ordained to be paid with this quality, *viz.* at least ſo much as will pay the purſuer of what owing to him, ſeeing what owing by the perſon decerned is not really known, or whether it be more or leſs than what owing to the purſuer: ſo that the writer, in raiſing of letters of horning or other diligence upon this decreet, would notice the words of the decerniture ſtrict, being ſometimes definite, when the defender depones upon what reſting, and ſometimes indefinite, when it is not known upon the account of abſence, as ſaid is, and let the diligence be according thereto, whether the one way or the other.

There is ſome other thing, that may occur in purſuits, before inferior judges, and that is, the judge may be in affinity or conſanguinity with the purſuer, and ſo nothing but partiality expected, or the judge probably may through ignorance of the laws repel a relevant defence proponed, for eliding of the purſuit, or the judge may have intereſt in the debt purſued for and the like, and ſo nothing but iniquity can be expected, in lieu of wholeſome juſtice; what then ſhall be the defender's courſe for preventing this ſtroke of injuſtice? The anſwer is clear, for the law has provided a remedy in the caſes foreſaid, or in caſe of deadly feed, *viz.* the Lords uſually are in uſe, upon addreſs made to them, upon the foreſaid or the like reaſons to grant advocation, the ſtile whereof follows, and the reaſons are omitted, becauſe they vary and alter, according as caſes alter.

ADVOCATION.

GEORGE, &c. to our ſheriffs in that part foraſmuch as it is humbly meaned and ſhown to us, by W. B. G. D. and A. B. and their tutors and curators for their intereſts, that where W. G. of has upon this pretended manner raiſed precept and ſummons, and therewith cauſed call and convene them before the ſheriff of and his deputes, touching the decerning of the ſaid complainers, and their ſaid tutors and curators for their intereſt, to make payment to him of the ſum of as principal of expences, and annuals of the ſaid principal ſum of all years and terms bygone, reſting, owing, and unpaid, and yearly and termly in time coming, during the not-payment thereof, conform to a bond granted by A. B. father to the ſaid W. B. as principal, and C. D. father to the ſaid G. D. as cautioner for him, to G. D. thereupon, of the date the day of years, and aſſigned by the ſaid G. D. to the ſaid W. G. upon the day of and to a decreet of ſuſpenſion obtained by him againſt the ſaid W. B. and G. D. complainers,

complainers, their ſaid deceaſed fathers before our Lords of council and ſeſſion upon the of and an act of caution ſubſcribed by the deceaſed I. B. father to the ſaid A. B. for the ſaid deceaſed A. B. and C. D. in the ſaid matter, the time of the obtaining of the ſaid ſuſpenſion, dated the day of in manner and for the cauſes at length ſpecified, and contained in the principal libelled ſummons or claim, raiſed in the ſaid matter, as the ſame in itſelf more fully proports: in the which action and cauſe, the ſaid ſheriff and his deputes intend to proceed, and give forth their final ſentence condemnator againſt the ſaid complainers, in the ſaid matter, albeit they be no ways judges competent to them thereuntil, and that moſt wrongouſly and unjuſtly, conſidering it is of verity, (here inſert the reaſons as they are in the paſt bill, only write in the third perſon as ye are formerly enjoined,) and ſo our Lords of council and ſeſſion may evidently perceive how wrongouſly and unjuſtly the ſaid ſheriff and his deputes intend to proceed in the ſaid matter, and pronounce and give forth their final ſentence condemnator againſt the ſaid complainers therein, albeit they be no ways judges competent to them in the ſaid matter, for the reaſons foreſaid, and others, &c. and therefore the foreſaid action and cauſe ought and ſhould be advocate from the ſaid ſheriff and his deputes, to our Lords of council and ſeſſion, as only judges competent, and unſuſpect thereto, and the ſaid ſheriff and his deputes, and all other inferior judges within this our realm, ought and ſhould be diſcharged from all further proceeding, cognoſcing, or decerning againſt the ſaid complainers for the ſame in time coming, for the reaſons and cauſes foreſaid, and others, as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummons, warn, and charge the ſaid ſheriff and his deputes, before whom the foreſaid action is purſued, and their clerk of court, and the ſaid W. G. at whoſe inſtance the ſame is purſued for his intereſt, to compear before our ſaid Lords of council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the day of in the hour of cauſe, with continuation of days, bringing with them the foreſaid pretended principal libelled precept, petition, or claim, with the grounds and warrants whereupon the ſame proceeded, and haill acts, warrants, and minutes of proceſs, and interlocutors, if any be made therein, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame advocate from the ſaid ſheriff and his deputes, and them and all other inferior judges diſcharged from any farther proceeding, cognoſcing, or decerning thereuntil, in time coming, in manner under written, *attour*, we, and the ſaid Lords of our council and ſeſſion, in our name have advocate, and hereby advocate the foreſaid action and cauſe from the ſaid ſheriff and his deputes, to the ſaid Lords themſelves, as only judges competent, and unſuſpect thereto, diſcharging hereby the ſaid ſheriff and his deputes, and alſo all other inferior judges within this realm, from all farther proceeding, cognoſcing, or decerning in the ſaid matter, and from all troubling, moleſting, or purſuing the complainers for the ſame, or giving or pronouncing

any

any decreet or ſentence thereuntill, for the reaſons and cauſes foreſaid, and others and of their offices in that part, in time coming, in the mean time while the day of that the verity be known, according to juſtice, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Thir two blanks in the will of the letters, is ruled by, and filled up according to the back of the paſt bill, which bears both.

So much as to perſonal, and what other legal diligence (except real) uſually falls out *inter vivum et mortuos*, or rather *haredes mortuorum*.

The next diligence in law competent againſt heirs repreſenting, or not renouncing when purſued, is real execution by appriſing, wherein it is requiſite to know if the debtors be infeft, and if, then letters of appriſing may be raiſed upon the decreet, the lands denounced, and appriſing led, and infeftment paſſed thereupon, according to the firſt form of appriſing, only the one is upon a bond, and the other on a decreet; but if the debtors be not infeft as heirs to their fathers, then *ante omnia*, there muſt be ſpecial charge raiſed on the decreet, charging them to enter heirs to their fathers according to the ſtile of the former ſpecial charge; only, whereas the former is upon a bond, and for the granter's own debt, this is upon a decreet, and for the father's debt, eſtabliſhed in the ſon's perſon by decreet, ſo that the ſtile alters in two points. 1. Whereas the former is on a bond, and deduces the narrative thereof, this is on a decreet, and muſt deduce the tenor thereof according to the narrative of the horning on the ſame decreet, till ye come to the letter Q. before the will immediately, whereas the words of the former ſpecial charge, after the lands a little, bear to the effect the ſaid complainer may have all manner of action, proceſs and execution of appriſing as ye find in the former draught, in lieu of theſe words (becauſe the ſpecial charge is for the father and not for the ſon's debt) ye muſt in this ſtile inſert the words following, to the effect the ſaid complainer may have ſicklike action, proceſs, and execution of appriſing, and others of the law competent, direct, led, raiſed, uſed and execute at his inſtance againſt them, and their ſaid tutors and curators, for their intereſts, and the ſaid lands and others above ſpecified, with the pertinents, as he might have had direct, led, raiſed, uſed, and execute at his inſtance againſt the ſaid deceaſed A. B. C. D. and I. B. at any time in their lifetimes, before their deceaſe, or, as if they were yet in life, for payment to him of the foreſaid ſums contained in the ſaid decreet, wherefore neceſſary it is for the ſaid complainer, to have thir our letters direct at his inſtance againſt them in manner, and to the effect after ſpecified, as is alledged: and after this inſert the will of the former ſpecial charge, till ye come to thir words, therein with certification, and then forbear, and in lieu of that certification, inſert this, *viz.*

with certification to them if they fail, the ſaid complainer ſhall have ſicklike action, proceſs, and execution of appriſing, and others of the law competent, direct, led, raiſed, uſed, and execute at his inſtance againſt them, as lawfully charged to enter heirs in ſpecial, to their ſaid deceaſed fathers, as ſaid is, and their ſaid tutors and curators for their intereſts, and the ſaid lands and others particularly and generally above ſpecified, with the pertinents, as he might have had againſt the ſaid deceaſed A. B. C. D. and I. B. at any time in their lifetime before their deceaſe, or as if they were yet in life, or againſt the ſaid W. B. G. D. and A. B. their ſons, and their ſaid tutors and curators for their intereſts, and the ſaid lands and others foreſaid if they were entered heirs in ſpecial, to them therein, in manner foreſaid, for payment to him of the foreſaid ſums contained in the ſaid decreet, notwithſtanding they willfully lie forth, and will not enter heirs in ſpecial to them therein, in manner above expreſſed; according to juſtice, Cloſe according to the former----

Ex deliberatione Dominorum Concilii.

This ſpecial charge being execute, and the days elapſed, letters of appriſing may be raiſed, according to the former ſtile, adding tutors and curators, and with the alteration of the words (to the effect) *ut prefertur*, and in ſhort the information for the meſſenger, the ſchedule, the executions, claim, procuratory, decreet of appriſing, ſignature, precept, horning againſt the ſuperior, charter and ſeiſin, and all other diligence, may enſue thereupon, according to the former ſtile, on the former ſpecial charge, only in the production of this decreet of appriſing, ye muſt mark produced, the extract of the decreet, whereas the former bears the extract of the bond to be produced.

There is another appriſing that ſometimes occurs (but *raro)* and that is, when a ſuperior appriſes from his own vaſſal, in which caſe it would be known how the appriſer ſhall be infeft; I anſwer, that in this one point, this appriſing differs from the nature of all other appriſings (except that after ſpecified of heritable bonds and ſums) for albeit in other appriſings, (except as aforeſaid) as there is lands appriſed, whereof there is a fee in the perſon of him againſt whom deduced, (whether the lands be holden of the king or of a ſubject) ſo infeftment muſt paſs, and is abſolutely requiſite; yet in this caſe there is none requiſite; for the ſuperiorbeing once infeft *quoad* the ſuperiority, and now appriſing the property, there is a conſolidation of both in his perſon, and the appriſing being allowed, is a ſufficient right to him, and when the decreet of appriſing is to be extended, ye would add (before upon the which appriſing and deliverance thereof above written) thir words, and as the ſaid inqueſt, by the mouth of their ſaid chancellor, found, and hereby finds, that the foreſaid lands and others above appriſed

appriſed, with the pertinents, are holden by the ſaid defender of the ſaid purſuer, as his immediate lawful ſuperior, and that therethrough, the right of property of the ſame is conſolidate in his perſon, with the right of ſuperiority, *ad perpetuam remanentiam*, at leaſt during the not-redemption, conform to act of parliament. And withal, in lieu of thoſe words in other appriſings (where the judge ordains the purſuer to be infeft, to be holden of ſuch and ſuch ſuperiors) thir words muſt be added, and I have ordained, and by thir preſents ordains the right of property of the ſaid lands, and others foreſaid, to be conſolidate with the ſuperiority in the perſon of the ſaid purſuer, and his foreſaids in time coming, *ad perpetuam remanentiam*, at leaſt during the ſaid not-redemption, conform to act of parliament, after the form and tenor thereof in all points, with full power to the ſaid purſuer and his foreſaids, to intromit with, uplift, aſk, crave, and receive, (here follow forth the concluſion of other appriſings.)

Nota, Albeit I deſire to take in the firſt words before, (upon the which appriſing) yet when taken in, ye muſt follow out the ſtile afterwards, beginning at theſe words, upon till ye come to the foreſaid words, and I have ordained, and by thir preſents ordains, at which leave off, and begin at the other words aforeſaid which I deſire to take in, and follow forth the ſame *uſque ad finem*.

It would be obſerved alſo, that in the claim of this appriſing, contrary to the ſtile of former claims, bearing in the petitory part thereof, a deſire to the inqueſt to ordain the purſuer to be infeft, to be holden of the immediate ſuperior (*ut dictum eſt*) your deſire in lieu of that part muſt be as follows, *viz*. And in reſpect that the foreſaid lands and others to be appriſed, with the pertinents, are holden by the ſaid of myſelf, as their immediate lawful ſuperior of the ſame, that your wiſdoms would find the right of property to be conſolidate with the ſuperiority in the perſon of me, my heirs and aſſignees, in all time coming, *ad perpetuam remanentiam*, at leaſt during the not-redemption, conform to act of parliament, and this I deſire your wiſdoms to do under the moſt part of your ſeals, as uſe is, and your wiſdoms anſwer.

It is not either to be forgot, that whereas the other acts of court ſay appriſed, and appriſes *affirmative*, conform to the claim, and alſo ordains the purſuer to be infeft in this appriſing, (I mean in the acts of court) you muſt ſay in lieu of theſe words, (and alſo ordains) and alſo finds that the ſaid lands and others appriſed, are holden immediately by the defender of the purſuer, and that therethrough the right of property, is conſolidate with the right of ſuperiority in the purſuer's perſon in time coming, *ad perpetuam remanentiam*, at leaſt during the not-redemption, conform to act of parliament.

Thus

Thus having period the form of the proceeding appriſing, the next thing to be thought upon is, what doubt may ariſe, as to the ſaid conſolidation and otherwiſe, and becauſe it is extraneous to the work in hand, ſhall only enumerate and condeſcend upon a few.

Doubts and Queſtions as to the Conſolidation aforeſaid, and otherwiſe in Appriſings.

SOme think in the caſe of conſolidation aforeſaid, the ſuperior ſhould produce his ſeiſin of the lands, with an extract of the vaſſal's, on his charter or precept of *clare conſtat* to the inqueſt and judge in the appriſing, to verify that the lands held of the purſuer; others think that there is no neceſſity for both, or either, it being *periculo petentis*, for which there is no law, and ſcarcely cuſtom, and reaſon would move any to incline to the other rather, and that becauſe the verdict of the inqueſt is, found that the lands hold of the purſuer and that therethrough the property is conſolidate, *&c.* which ſeems to be a thing that ſhould and ought to be inſtructed, there being little or no diſparity betwixt this conſolidation and that in a ſervice, wherein the holding muſt be inſtructed *ſcripto*, by production of the ſuperior's charter and ſeiſin thereof, to verify the point of the brief (of whom holden, and how, and for what duty) but if it be objected, that the reaſons why ſervices muſt be inſtructed, and this of appriſing not, is in the firſt, (as to the ſervice) error may be committed, but in the other not: it is anſwered, that a party being lawfully cited to an appriſing, and not compearing, there may be much in it, but if compearing, and denying the lands of the purſuer to hold, and produce a charter evidencing the ſame to hold of another ſuperior, and yet the inqueſt making a conſolidation *ut ſupra*, it may be thought in this, error may be committed by the inqueſt, as well as in the other: but to conclude as to this point, that of ſervices is clear by law, the other not, and ſo the cuſtom and conſtant practice is a ſure rule.

Another queſtion is, whether (in caſe of conſolidation, as ſaid is) the vaſſal redeeming within the years of the legal, does his infeftment revert, and revive to its firſt force, upon the ſuperior and appriſer's renunciation, ſince the legal reverſion of the law competent may be judged at leaſt equivalent to a letter of *regreſs*, or if once conſolidate, if the ſuperior muſt of new make conveyance to the vaſſal by diſpoſition, charter and ſeiſin? the anſwer is clear, for being paid within the legal, all reverts and redintegrates.

If another perſon ſhall appriſe (after this of the ſuperior) whether there be neceſſity for him (it being only an appriſing of a legal) to be infeft by the ſuperior, becauſe of the conſolidation, or if this appriſing gives him right to the legal, and

ſo

ſo may redeem as of other appriſings not of this nature? The anſwer ſeems clear, the laſt appriſer without infeftment may redeem, and yet after redemption it is convenient he be infeft on his own and the ſuperior's appriſings.

There is another doubt incident to appriſings, and that is, ſuppoſe a perſon have an annualrent of 1200 merks a year, upliftable forth of a land, and that to be holden of the diſponer or debtor, and thereafter there being many years of the ſaid annualrent reſting, the creditor obtains decreet of poinding of the ground againſt the heritor and tenants, and, in default of moveable goods, compriſes the land for the bygone annualrents, (not the principal ſum) in which caſe the appriſer becomes not only heritor, but alſo ſuperior to himſelf, in the former right of the annualrent, and ſo in effect is both annualrenter out of the land, and thereby creditor-heritor of that ſame land, and thereby debtor in the annualrent, and laſtly, is ſuperior of the annualrent *ut ſupra*, which would ſeem to breed confuſion, and how to lead the appriſing, and red marches, is the queſtion moved.

I have ſeen a compriſing of this nature many years ago, and no doubt, being of a great eſtate, and for a conſiderable debt, was not without advice of eminent lawyers, and run thus, after the words to be holden, *&c.* in the cloſe of the appriſing, this proteſtation was made, and thereafter the ſaid procurator proteſted, that the foreſaid appriſing of the ſaid lands, which gave the purſuer right not only to the property thereof, but alſo the right of the ſuperiority of the ſaid annualrent, that therefore the ſame may be but prejudice to him, and his foreſaids of the ſaid right of annualrent, and that the right of annualrent may be but prejudice to them of the ſaid appriſing, and that it ſhall be lawful to them, and in their power to make, uſe, and brook, by virtue of all or either of the ſaid rights, conjunctly and ſeverally, as accumulative or diſtinct rights, and that but any innovation or confuſion of rights; which proteſtation, I the meſſenger (judge in the appriſing, ſpeaking) have admitted, and hereby admit, and thereupon the ſaid procurator, in name of the purſuer, aſked and took inſtruments.

There is another queſtion that may ariſe, and that is, it is true the perſon againſt whom the appriſing is to be led, owed ſo much by bond, which is to be the ground thereof, but at divers times he paid ſome parcels of it, and it is like the creditor has not been ſo exact as to keep doubles of his own diſcharges, or a note of what, and when paid, ſo as to compriſe for no more than is juſtly reſting, becauſe if he do compriſe for more, it may be a ground to reduce the appriſing, to prevent this inconveniency, it ſhall be fit that the creditor gueſs as near as he can as to his receipts, and paſs not only from that, but ſo much more (to be ſure) and that in the compearance of the appriſing, and after the claim and inſtructions is mentioned, produced, but that paſſing would only be *pro loco et tempore*, and under proteſtation, that it ſhall be lawful to the creditor to purſue for the remainder, as accords.

There is another queſtion that may occur in the appriſing aforeſaid, and that is, it is true when the ſuperior is infeft in the ſuperiority, and appriſes from the vaſſal, tha.

that of the conſolidation is clear, but what if the perſon that appriſes, albeit he be appearing heir to the ſuperior, yet is not infeft, nor entered as heir to the ſuperior, and probably dare not becauſe of debts ſurmounting the value of what he may enjoy by his predeceſſor ſuperior, how then ſhall this appriſing be led, for there can be no conſolidation becauſe not infeft in the ſuperiority, and as to the other method propoſed in other appriſings, *viz.* to diſcuſs the ſuperior by horning (if holden of a ſubject) is impoſſible, the appriſer being the appearing ſuperior himſelf, and ſo cannot diſcuſs himſelf, as he might a third perſon, and that the method of other appriſings muſt be followed and proſecute as to the getting infeftment, is not to be doubted, notwithſtanding, the anſwer is clear, he may aſſign the debt to a friend, who may do all in the ordinary courſe, and then diſcuſs the ſuperior.

There is another, and not the leaſt doubt to be obſerved in all appriſings, where infeftment muſt follow, and the lands hold of a ſubject, and that is, it is true, I have compriſed, and I have charged the ſuperior with horning to infeft, and probably he is content to give obedience, but I know not how to behave, for he is not infeft in the ſuperiority himſelf? It is thought in anſwer to this doubt, that the vaſſal taking a charter from the ſuperior, with thir words (now as if he were infeft, and then as now) and he thereafter being infeft at any time in his lifetime, the vaſſal's right will accreſce, and become effectual, whereas, on the other hand, if he die before infeftment, the vaſſal's entry is of none effect, but whether the charge of horning will be ſo (the vaſſal diſcuſſing the next appearing heir *pro ut de jure*) or if the ſubſequent entry be a perſon and ſuperior infeft, will be brought back to the charge given to the perſon deceaſed, and not infeft, is diſputable; but if the appriſer would be ſecure without ſuch hazard, the way is this. 1. To charge the ſuperior (whether infeft or not) to infeft, and thereafter to raiſe a ſpecial charge to enter heir in the ſuperiority *ad hunc effectum*, that he may be in a capacity to enter him, which muſt be relative to both appriſing, horning, and charge given, and when the forty days are elapſed, ſummons of declarator would be raiſed, to hear him decerned to omit the ſuperiority *ad vitam*, and his ſuperior ordained to infeft, who muſt be convened for that effect, and if the king be ſuperior, the ſtateſmen and director muſt be convened (as amongſt letters and ſummons) to direct precepts under the quarter ſeal, and this declarator muſt be relative to appriſing, horning, charge, and ſpecial charge, the ſtile whereof ye have amongſt the ſummonſes; and as to this point of the amiſſion, ye will find it more fully handled amongſt the method of ſervices, to which ye have a remit.

There is another kind of appriſing, upon which no infeftment paſs at all, and that is, when a perſon appriſes heritable bonds, contracts of wadſet, heritable attolerances, and heritable diſpoſitions of teinds, heritable offices, and the like, upon the which no infeftment has followed; but ſince this appriſing differs not from the former ſtile, omitting lands and what relates thereto under the general clauſe, with

with the aſſignation to the duties of the lands, the words, and ordains to be infeft, to be holden of ſuch ſuperiors, and in the words, with full power, omit thir words, to aſk, crave and receive the duties, ſet and raiſe tenants, and what therein relates properly to lands.

Nota, Heritable bonds whereupon no infeftment followed, are now arreſtable at a lawful creditor's inſtance, and (without appriſing) and upon a ſimple action of forthcoming may attain payment, as in moveable bonds and ſums, but moveable bonds cannot be appriſed, becauſe not heritable but arreſted or confirmed.

So much as to appriſings in the reſpective caſes, and what thereupon enſues.

There is one queſtion more that may be moved through curioſity, and that is, there are two or more perſons creditors to a certain perſon, the one perſon has a horning, containing poinding and arreſtment, and which poinding bears thir words, and failing of his moveable goods and gear poindable, that ye appriſe his lands and heritages conform to the acts of parliament, And the other creditor intends to appriſe, and for that effect, to raiſe letters of appriſing *in communi forma*. Now the perſon, haver of the horning and poinding, being deſirous to prevent the other in diligence, intends to appriſe firſt, and to make uſe of no other ground than his horning, containing the words aforeſaid; and, in ſhort, by virtue of the privilege introduced in his favour, by virtue of his letters aforeſaid, denounces the debtor's lands, and proſecutes the whole order preſcribed by act of parliament, and in end, appriſes and uſes all diligence competent thereupon; and thereafter the other perſon leads his appriſing, and uſes the like diligence (but poſterior) the caſe being thus, it may be doubted which of the appriſers will be moſt valid and effectual, eſpecially if the laſt appriſer quarrel the firſt upon this ground, that the way and manner of the leading of the firſt, is not *habilis modus ducendi*; in this I ſhall forbear to dive in point of law, only if the firſt party appriſer have diſpenſation for place and time of vacance, I know no reaſon but it may be as valid as the other, there being no prohibition or declarator to the contrary, and I have heard that Sir Thomas Hope gave the like advice, and was followed, but he that obſerves the conſtant and allowable cuſtom, walks ſafeſt, and has leaſt reaſon to fear.

Thus having put a period to what perſonal and real execution is competent againſt perſons in life, whether infeft or not, and as againſt their heirs, in caſe of repreſentation, (not omitting that of poinding and arreſtment.)

The next thing to be ſuppoſed is, but what if the appearing heirs, when purſued for their father's debt, will not enter nor repreſent, but renounce to be heirs?

The

The next courſe to be taken then in the caſe foreſaid, is ajudication; and becauſe it is as requiſite to know the progreſs of this as that of appriſing, I ſhall ſpeak firſt as to the method, and then commit the form to paper; and therefore know, that when the heirs are purſued, and the action called before the Lords, as formerly ſaid, as the purſuer compears by his procurator, and produces to inſtruct his ſummons, the bonds, libelled upon, and as to the paſſive title, produces his general charge and executions thereof ſubſcribed by the meſſenger, ſo the defenders compear by their procurator, and alledge *abſolvitor*, becauſe they offer to renounce, and craves a day to produce a renunciation, *ad hunc effectum*, which the Lords (in caſe the purſuer be not able to alledge that *res non eſt integra*, in ſo far as they have behaved intromitted) finds relevant, and aſſigns a certain day to them to renounce, whereupon the purſuer proteſts for adjudication *contra hæreditatem jacentem, et bona mobilia*; which proteſtation the Lords admit, whereupon there is an act extracted by the clerks of ſeſſion, and ſubſcribed by the regiſter or his deputes, and the day aſſigned by the Lords to the defender being elapſed, the purſuer does cauſe the ſub-clerk call the act thrice againſt the defender, to ſatisfy the ſame by production of the ſaid renunciation, which not being done, there is a decreet conditional put up in the minute-book, to a certain day thereafter, before which time, if it be not produced, then the decreet is given out, decerning the defenders to pay the debt to the purſuer, after which, all execution, both perſonal and real, is competent againſt them, according to the former ſtiles, when they ſuffer decreet to paſs for null defence, but, on the other part, if they ſatisfy the act, and produce the renunciation, the tenor thereof follows.

Renunciation to enter Heir.

BE it known to all men by thir preſent letters We. W. B. lawful ſon to the deceaſed A. B. of G. D. lawful ſon to the deceaſed C. D. of and A. B. lawful ſon to the deceaſed I. B. of with conſent of our curators under ſubſcribing, foraſmuchas we are charged to enter heirs to our ſaid deceaſed fathers, within forty days conform to act of parliament, by virtue of letters raiſed againſt us at the inſtance of W. G. of to the effect he may have ſicklike action, proceſs, and execution of the law competent, direct, led, raiſed, uſed, purſued, and execute at his inſtance againſt us, as he might have had againſt our ſaid deceaſed fathers at any time in their lifetimes before their deceaſe, or as if they were yet in life, for payment to him of ſuch ſums of money, as are reſting by them to him, by bond or otherwiſe, in manner and with certification as is at length ſpecified and contained in the ſaid letters and executions thereof

thereof; likeas ſince the days of the ſaid general charge elapſed, the ſaid W. G. has convened us upon the haill paſſive titles, before the Lords of council and ſeſſion, for payment of ſuch ſum, as are reſting to him by our deceaſed fathers, in manner ſpecified in the ſummons raiſed thereanent: and ſeeing, after mature deliberation taken in the ſaid matter, we find that we cannot repreſent our ſaid deceaſed fathers, without involving ourſelves in greater prejudice than ever we can enjoy of benefit, and as we, upon that account, do not reſolve to enter heirs to them; ſo we being no ways deſirous that any lawful creditor of theirs be fruſtrate of their lawful debt, ſo far as the lands and eſtates can ſatisfy the ſame, therefore, wit ye us, with conſent foreſaid, to have renounced, and, by thir preſents, renounce to be heirs to our ſaid deceaſed fathers, with all profit that may accreſce, appertain, and belong to us, if we were entered heirs to them, of, upon, or concerning, any lands, heritages, tenements, annualrents, rooms, poſſeſſions, bonds, heritable or moveable, and others whatſoever, pertaining and belonging to them, and whereunto we might ſucceed by their deceaſe, and all action, purſuit, and inſtance competent, or that might be competent to us thereupon, in the caſe foreſaid, to and in favour of the ſaid W. G. his heirs and aſſignees, and all others, the lawful creditors of our ſaid deceaſed fathers, for payment to them of the lawful debts juſtly addebted to them by our ſaid fathers, by thir preſents for now and ever; and hereby freely conſent, that the ſaid W. G. and remanent creditors foreſaid, have adjudication hereupon, *contra hæreditatem jacentem, et bona mobilia*, and others pertaining to the ſaid defuncts the time of their deceaſe, and that decreet *cognitionis cauſa* paſs for that effect in their favour, proteſting hereby, that, upon production of this preſent renunciation, we be aſſoilzied from the foreſaid purſuit intented againſt us, at the inſtance of the ſaid W. G. and alſo of all other purſuits, to be intented againſt us, at the inſtance of the remanent creditors of our ſaid deceaſed fathers, at any time hereafter, and of the haill deſire of the ſummons raiſed thereanent, forever, conſenting thir preſents be regiſtrate in the books of council and ſeſſion, or others competent, therein to remain *ad futuram rei memoriam*; and conſtitutes

Our procurators. In witneſs whereof, we, and alſo our ſaid curators, in teſtimony of their conſents, have ſubſcribed thir preſents (written by) with our hands at the days of the year of God 17 years, before thir witneſſes,

This renunciation being produced, when the act is called as aforeſaid, then the purſuer's advocate gets it to ſee; and being returned, and found ample and formal, the purſuer gets decreet *cognitionis cauſa*; and being extracted, raiſes ſummons of adjudication thereupon, the ſtile whereof ye will find amongſt the ſummons; only here know, that if the defunct had lands before raiſing of the ſummons, it would be known of whom the lands hold, whether of the king or a ſubject; for if of the king, then ye muſt call the chancellor, treaſurer, principal, depute, privy-ſeal, advocate, regiſter, and other miniſters, and director of the chancellory, for

the king's intereſt, becauſe the ſummons concludes, that the lands being adjudged from the appearing heirs, as they who were charged and renounced, that the director be ordained to iſſue forth precepts for infeftment; and the reaſon is, the king may have a reaſonable cauſe to alledge, why he cannot infeft, as that the lands are fallen in recognition, the right is reduced for not-payment of the feu-duty, and the like; which, if he have, they may be proponed in the adjudication; and, on the other part, if the lands hold of a ſubject, he muſt be convened for his intereſt; for the ſummons concludes againſt him, that he be not only decerned to infeft, but alſo that letters paſs for that effect on twenty-one days under the pain of horning and he may alſo have the ſame or like reaſons to alledge, as thoſe mentioned for the king, why he cannot infeft, and becauſe there may be lands holden of both king and ſubject, I ſhall ſhew what is to be done in both caſes, and how; and firſt as to the king, which is to give in a bill to the Lords in the terms following, (for this adjudication needs not be allowed).

Bill againſt the Director of the Chancellory and his Deputes.

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth W. G. of that whereupon the day of years, I obtained a decreet of adjudication at my inſtance, againſt W. B. G. D. and A. B. as lawfully charged to enter heirs, and who renounced to be heirs to the deceaſed A. B. of C. D. of and I. B. of their fathers, and their tutors and curators for their intereſt, and alſo againſt his Majeſty's chancellor, treaſurer, principal, depute, lord privy ſeal, advocate, regiſter, &c. and S. W. K. director of the chancellory, and his deputes, for their intereſt, and all others having or pretending to have intereſt in the ſaid matter, before your Lordſhips, whereby your Lordſhips, for the cauſes therein ſpecified, adjudged, decerned, and declared the undoubted heritable and irredeemable right of the lands of pertaining to the deceaſed A. B. C. D. and I. B. the time of their deceaſe, and who deceaſed at the ſeveral and particular times mentioned in the ſaid decreet, and which might have appertained to their ſaid ſons, had they entered and not renounced to be heir to them in manner therein expreſſed; together with the haill contracts, diſpoſitions, infeftments, and other writs and evidents, rights, and ſecurities ſtanding in their perſons, or any ways competent to them, of, upon, or concerning the ſame, to accrue, appertain, and belong to me, my heirs and aſſignees heritably, and the ſame to be peaceably poſſeſſed, bruiked,

bruiked, enjoyed, occupied, laboured, manured, ſet, raiſed, uſed, and diſpoſed upon by us, as our own proper heritage in all time coming, for payment to me and my foreſaids, of the ſums of money ſpecified in the ſaid decreet, addebted to me by the ſaid defuncts, in manner, and for the cauſes therein expreſſed; and alſo ordained me and my foreſaids to be heritably infeft and ſeiſed thereintill, to be holden of his Majeſty and his royal ſucceſſors, as freely in all reſpects, as the ſaid defunct perſons held the ſame at any time in their lifetimes, and for that effect, ordained the director of the chancellory and his deputes, to direct, emit, and iſſue forth precepts under the quarter ſeal, in manner under written, as the ſaid decreet preſent to ſhew bears, and which they wrongouſly refuſe to do without they be compelled. Herefore I beſeech your Lordſhips, that ye would grant warrant to, and ordain the ſaid director and his deputes, to grant, direct, emit, and iſſue forth precepts under the quarter ſeal, in my favour, for infefting me as having right, as ſaid is, in the lands and others above ſpecified, to be holden of his Majeſty, and his ſucceſſors, in manner above expreſſed, and alſo to append the ſaid quarter ſeal thereto, in due and competent form as effeirs, after the form and tenor of the ſaid decreet, in all points, and your Lordſhips anſwer.

A writer to the ſignet ſubſcribes this bill.

This bill being given in to the bill-chamber, with the decreet of adjudication, as its inſtruction, the ſame is written upon by the clerk of the bills' ſervant, and thereafter paſt by the ordinary Lord on the bills, and ſubſcribed by the clerk, which being done, the writer gives in the bill thus expede to the chancellory, and upon ſight thereof, there is a precept expede, and becauſe as any nottary may give ſeiſin thereon, ſo the ſtile of the ſeiſin may be had in the former ſtiles, I mean the ſeiſin taken on the king's precept *ut prius*, which in this may be followed *mutatis mutandis*

The next thing to be conſidered is, what if the lands adjudged, or any part thereof hold of a ſubject, how ſhall the adjudger be infeft, and the ſuperior compelled to receive him vaſſal? The anſwer is, that horning may be, and uſually is, raiſed for that effect, in the terms and form after ſpecified.

Horning againſt a Superior, on a Decreet of Adjudication.

GEORGE, &c. to meſſengers foraſmuchas, our Lords of council and ſeſſion, by their decreet of adjudication, given and pronounced by them, at the inſtance of W. G. of upon the day and date of thir preſents,

preſents, againſt W. B. G. D. and A. B. eldeſt lawful ſons, and lawfully charged to enter heirs to the deceaſed A. B. of C. D. of and I. B. of their fathers, and who renounced to be heirs to them, and their tutors and curators for their intereſt, and againſt S. G. M. of ſuperior of the lands and others after ſpecified, for his intereſt, and all others having or pretending to have intereſt in the matter under written, for the cauſes therein ſpecified, adjudged, decerned and declared the undoubted heritable and irredeemable right of all and haill the lands of (here inſert the lands holding of the ſuperior, as in the decreet) lying within, lately pertaining to the ſaid deceaſed A. B. C. D. and I. B. and wherein the ſaid W. B. G. D. and A. B. their ſons might have purchaſed and procured themſelves entered and infeft as heirs to them, in manner ſpecified in the ſaid decreet, to accreſce, appertain and belong to the ſaid W. G. his heirs and aſſignees heritably, and to be peaceably poſſeſſed, bruiked, enjoyed, occupied, laboured, manured, ſet, raiſed, uſed, and diſpoſed upon by them, as their own proper heritage, in all time coming, for payment to them of the ſums of money therein mentioned: and alſo ordained the ſaid S. G. M. ſuperior thereof to infeft and ſeiſe the ſaid W. G. and his foreſaids therein, to be holden, in manner after ſpecified; and for that effect, to make, grant, ſubſcribe and deliver to them ſufficient charters, containing precepts of ſeiſin, and others, writs and ſecurities requiſite, in manner under written, in manner ſpecified in the ſaid decreet, as the ſame of the date foreſaid, ordaining letters to be direct thereupon, in manner after expreſſed, in itſelf more fully purports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid S. G. M. perſonally, or at his dwelling-place, to infeft and ſeiſe the ſaid W. G. and his foreſaids heritably, in all and ſundry the lands, and others above adjudged, with the pertinents lying and pertaining, as ſaid is, and to make, grant, ſubſcribe, and deliver to them ſufficient charters, containing precepts of ſeiſin, and other ſecurities requiſite for that effect, to be holden of him, his heirs and ſucceſſors, as immediate lawful ſuperiors of the ſame, ſicklike, and as freely in all reſpects, as the ſaid defunct perſons held the ſame at any time in their lifetimes before their deceaſe, or as their ſaid ſons might have holden the ſame, if they had entered and not renounced to be heirs to them, in manner ſpecified in the ſaid decreet, for payment to the ſaid W. G. and his foreſaids of the ſums of money therein contained, after the form and tenor thereof, in all points, within twenty-one days next after the charge, under the pain of rebellion, and putting of him to our horn, wherein if he fail, that incontinent thereafter ye denounce him rebel, and put him to our horn, and eſcheat, and inbring all his moveable goods and gear to our uſe for his contemption; and alſo that ye uſe the haill remanent order againſt him, preſcribed by act of parliament, made thereanent, according to juſtice as ye will anſwer, &c.

Per decretum Dominorum Concilii.

The date of the decreet muſt be the date of the letters.

Note,

Nota, The ſuperior being charged, and not entering the vaſſal, he may (after the twenty-one days are elapſed) be denounced, regiſtrate at the horn, and caption raiſed againſt him, according to the ſtile of the preceding captions, only whereas the former bears, for not-payment of ſuch ſums, contained in ſuch a bond or decreet, this muſt bear, for not infefting ſuch a man in ſuch lands, conform to a decreet of adjudication obtained at his inſtance againſt ſuch perſons, and the ſuperior for his intereſt, before the Lords, upon the day of

Nota, That albeit the compoſition due to ſuperiors of compriſed lands for entry. *viz.* a year's rent, or the Lords modification, which, if the rent be great, and the ſum appriſed for but ſmall, or the lands in haill or part liferented, they uſually make but a year's annualrent of the money, yet there is nothing due by adjudgers for entry, notwithſtanding there may be as much pretended in reaſon and equity by the ſuperior, from the adjudger, as by the other, only there is an act of parliament appointing the firſt, but no act as to the laſt, which is the rule of both; and the Lords decide accordingly.

If the ſuperior have any reaſons why he cannot enter, as that of recognition, that the feu is extinct, and declared for not-payment of the feu-duty, that the former vaſſals diſclaimed him as their ſuperior, that they were in non-entry themſelves, and the gift diſponed and declared, and the like, he may ſuſpend, and a ſtile thereof ye will find amongſt the former ſtiles, only, whereas after deduction of the lands in the charge, it is ſaid, which lands pertained heritably of before to A. B. C. D. and I. B. and were appriſed ye muſt ſay, which lands pertained heritably of before to the deceaſed A. B. C. D. and I. B. and were lawfully adjudged from W. B. G. D. and A. B. their ſons, as lawfully charged to enter heirs and who renounced to be heirs to them, and their tutors and curators for their intereſts, and all others having, or pretending to have intereſt, at the inſtance, and to and in favour of the complainer, for payment to him of the ſums of money contained in the decreet of adjudication pronounced thereanent, before the Lords of council and ſeſſion upon the day of years.

And as to the bond of caution, the ſtile of the former bond is ſufficient *mutatis mutandis*, viz. whereas in the former it is ſaid, that they ought and ſhould make payment of ſuch ſums contained in ſuch a bond; in this ye muſt ſay, that he ought and ſhould infeft ſuch a perſon in ſuch lands, conform to ſuch a decreet of adjudication obtained at his inſtance againſt ſuch perſons, and the ſaid as ſuperior, before the Lords, upon the day of that he ſhall do therein as in the other bond of caution.

But if the ſuperior will enter voluntarily, the charter follows.

Charter

Charter upon a Decreet of Adjudication.

OMnibus hanc chartam viſuris vel audituris, dominus G. M. de ſuperior terrarum aliorumque ſubtus ſcript. cum pertinen. ſalutem, in domino ſempiternam, noveritis me (pro obedientia mandati ſubtus ſpecificati) dediſſe, conceſſiſſe, diſpoſuiſſe, et hac preſenti charta mea, pro perpetuo confirmaſſe, tenoreque preſentium, dare, concedere, diſponere, et hac preſenti charta mea, pro perpetuo confirmare, dilecto meo W. G. de hæredibus ſuis, et aſſignatis, quibuſcunque hæreditarie, totas et integras terras de jacen. infra parochiam de et vicecomitatum de Quæquidem terræ aliaque reſpective ſupra diſpoſita, cum pertinen. perprius, hæreditariæ pertinerunt ad quondam A. B. de C. D. de et I. B. de et ab W. B. G. D. et A. B. eorum filiis natu maximis tanquam legitime mandatis ad intrandos hæredes iis, infra ſpatium quadraginta dierum, et qui hæredes iis intrare renunciaverunt, eorumque tutoribus et curatoribus, omnibuſque aliis intereſſe habentibus, legitime adjudicati fuerunt, ſecundum tenorem decreti adjudicationis, idcirca contra eos ad inſtantiam prefati W. G. coram dominis concilii et ſeſſionis dedata die menſis anno obtenti pro ſolutione ei ſuiſque præſcriptis ſummarum monetæ inibi expreſſarum, ut in dicto decreto, ordinan. me tanquam ſuperiorem, prædictum prænominatum W. G. ſuoſque antedictos in dictis terris, aliiſque ſupra ſcriptis cum pertinen. infeodare, et literas cornuationis, ad hunc effectum, contra me dirigi latius continetur, et virtute cujuſquidem, decreti literarumque cornuationis de ſuper direct. ego tanquam ſuperior ſupra ſcript. ad effectum ſupra ſpecificatum die menſis ſub pœna cornuationis, legitime mandatus fui ut in dictis literis et executionibus, earundem amplius recitatur, tenen. et haben. (here take in the tenendas reddendas, precept of ſeiſin, and concluſion of the charter of appriſing in the former ſtiles: only whereas in the tenendas of the former, it is ſaid after the lands *ſupra appretiat*, ye muſt in this ſay, *ſupra adjudicat*, and whereas in the reddendas thereof, it is ſaid *antedictam appretionem*, ſay in this *antedictam adjudicationem*, and in the precept, for *ſupra appretiat*, in the cloſe ſay *ſupra adjudicat*).

The ſeiſin on this charter, differs nothing from that on the charter of appriſing in the former ſtile, only in lieu of the words *et quæquidem terræ* after the lands in the former, till ye come to the word *quamquidem*, inſert the words of the above written charter from the ſame words *quæquidem* till ye come to thir words *ut in dicto decreto* and then follow forth the ſtile of the former, only inſert your own precept of ſeiſin with your own date, place witneſs and all.

There is another kind of adjudication which ſometimes occurs, and yet without any renunciation, which makes the caſe the more ſingular, and before I come to its method, I ſhall firſt deduce the caſe, and you are to take it up in the manner following, *viz.* there is a perſon called I. M. who has father, grand-father, and great-grand-father, and may repreſent the great-grand-father, as alſo the grand-father

grand-father, but dare not ſerve heir to the father by reaſon of great debt; and it is not to be forgot, that this perſon's father while in life, and apparent heir to the grand-father and great-grand-father, diſponed to a third perſon as apparent heir, certain lands, teinds, and patronages belonging to both of them: and to the effect the right might accreſce, obliged himſelf to ſerve, and obtain himſelf alſo infeft, and thereafter to reſign, &c. but *medio tempore* deceaſed, by which means it would appear the right died with him; yet this third perſon charges the ſaid I. M. to enter heir to his father, the diſponer albeit never infeft, I mean heir in general, and thereafter purſues him before the Lords upon all the paſſive titles, and the action being called and diſputed, the defender offered to renounce, but the purſuer offered to prove that *res* was not *integra*, in ſo far as he being purſued, *ex hoc titulo paſſivo*, at another perſon's inſtance, he not only ſuffered decreet to paſs for not-production of a renunciation, but alſo afterwards homologate the decreet by granting a corroboration of the ſame, whereupon the ſaid I. M. was decerned to fulfil the diſpoſition granted by his father: Now decreet being obtained as aforeſaid, the queſtion is this, How ſhall the purſuer have a right eſtabliſhed in his perſon of the lands and others diſponed, ſeeing the party will not do it voluntarily, for to charge to enter heir in ſpecial, and thereupon he cannot appriſe, not being for a liquid ſum, and to adjudge would ſeem impoſſible, becauſe the purſuer would not accept of a renunciation (in which caſe uſually adjudication only is had) neither would a renunciation in this caſe have effectuate the purſuer's intent, the grand-father not being the diſponer, but the father to whom he was charged, and to have entered heir to the grand-father, and not the father (who only diſponed) were to ſhun implement of the diſpoſition, and to diſown the father's deed every way? The anſwer is clear, (albeit ſuch caſes ſeldom or never occur) and it is this, albeit the father was the diſponer, who was never infeft, and that the grand, and the great-grand-fathers were the laſt infeft, and ſo a deed of theirs (as would appear) only ſufficient to effect theſe lands; yet this I. M. who was apparent heir to the grand and to the great-grand-father, and who by ſervice might have undoubted right to all that was theirs, and thoſe lands diſponed in particular, having behaved himſelf as heir to the father, and a poſitive title being fixed upon him, and thereupon decreet pronounced againſt him, the purſuer has legal acceſs to him anent the implement of the diſpoſition made by the father, as well as if the ſame were a deed of the grand, or great-grand-fathers; and the firſt diligence is to raiſe horning on the decreet, and charge him therewith, and after the days of the charge are elapſed, to denounce and regiſtrate; and this being done, to raiſe a ſpecial charge againſt him on the decreet, which muſt alſo narrate the horning raiſed, and charge given and expired, and that the ſame is regiſtrate, and the ſtile of this ſpecial charge from the former differs in thir two points, the firſt whereof is, whereas in the former it is ſaid, to the effect the complainer may have all action, proceſs, and execution of appriſing, *&c.* as alſo in the other ſpecial charge, to the effect the complainer may have ſuch like action,

action, *&c.* 2. The certification of the former ſays, that the complainer ſhall have ſicklike action, proceſs, and execution of appriſing, and others of the law competent. In this ſpecial charge, theſe words, to the effect, muſt be conceived as follows; to the effect the ſaid may be in capacity to fulfil the ſaid right and diſpoſition, and for that effect renew the ſame with procuratories of reſignation, precepts of ſeiſin, and other clauſes needful, conform to the tenor thereof, in all points, and the certification of this (contrary to the former) muſt be with certification, the complainer ſhall have action of adjudication and others of the law competent, direct, led, and uſed at his inſtance againſt him, as lawfully charged to enter heir, as ſaid is, and the ſaid lands, and others above diſponed, with the pertinents, as might be had againſt him and them, if he were entered and infeft therein, notwithſtanding he wilfully lie forth, and will not enter heir in ſpecial to his ſaid deceaſed grand and great-grand-father in manner above expreſſed.

This ſpecial charge being execute, and the forty days elapſed, the next courſe is to raiſe ſummons of adjudication of the lands, relative to the diſpoſition, decreet, horning, charge, denunciation, and regiſtration, and to the ſpecial charge, and its execution, and having thus premiſed to ſubſume, that in reſpect the purſuer has done all the diligence of the law incumbent, and diſcuſſed the ſaid I. M. by horning, caption and ſpecial charge, that therefore neceſſary it is he have the lands adjudged, and becauſe it is not proper to ſet down the ſtile of the ſummons here, you have it amongſt the other ſummonſes, only here know, that in this adjudication, ye muſt convene chancellor, treaſurer, principal, and depute, privy ſeal, advocate, regiſter, *&c.* and director and his deputes, if the lands hold of the king, and if of any other ſuperior, ye muſt cite them particularly, and all parties having intereſt in general, as in the former caſe of adjudication upon a decreet *cognitionis cauſa.*

On the decreet of adjudication, to follow thereupon, the diligence competent on the former adjudication (whether the lands hold of the king or other ſuperior) is to be proſecute in this, as ye find in the preceding ſtiles, *mutatis mutandis.*

END *of the* FIRST PART.

GIFTS

PASSING THE

PRIVY SEAL.

PART II.

To the Truly Noble and Potent JOHN Marquis of Athole, Earl of Tullibarden, Viscount of Balquhidder, Lord Murray, Balveny and Gask, &c. George Dallas of St Martins, Author of the whole Work, whereof this is the Second Part, wisheth all Tranquillity and Happiness.

My LORD,

THE eminent parts with which the Lord has endued your Lordship, attended with your noble birth, and strong inclinations to justice, and all that is virtuous and religious, have been no small rise to your noble family in this age. It is recent how, by your constant adherence to, and sufferings for the crown, being sequestrate for eight years by the late usurpers, King Charles II. of ever glorious memory, upon his restoration *anno* 1660, most deservedly conferred upon your Lordship, not only titles of honour, but also several eminent stations, particularly Lord Privy-seal, in which I had the honour to serve your Lordship as depute-keeper of that seal: And now conceive myself in gratitude, obliged to dedicate this Part, relating to the Privy seal, to your Lordship, and to put you in mind of the antiquity of your name in this kingdom: for those that please cast their eyes upon our history, will find, that the Romans having expelled your predecessors out of Almain, in Moravia, their native country, they arrived in Forth, between Lothian and Fife, in the reign of Corbredus I. who succeeded his brother Coratacus; and the kings of Scots and Picts having entered in league against the Romans, who infested them, desired the Murrays to join with them, who easily granted their desire, and upon no other terms than to grant them wives, that they might increase under one blood with the Scots; which being granted, the Murrays joined with the two kings, and the Romans, in open battle, vanquished, and seventy thousand of them killed; and had not Suetonius the Roman legate come hastily into Britain with a great force, the Albions had been perpetual-

ly freed from the Romans, and in this battle the moſt of all the Murrays, and Roderick their captain, no ſmall evidence of their gallantry and chivalry, were killed, and Corbredus bequeathed to thoſe of the Murrays that lived, all the land 'twixt Spey and Neſs, now conſiſting of three ſhires, afterwards, and to this day called Murrayland, after their Name, having expelled the old inhabitants called Wars, after their Captain Warrack, a ſeditious people, and which land, as would appear, went off by a female, tailzies to heirs-male to perpetuate men's fortunes being only of late introduced; and albeit what be ancient at will, yet if any will look back but a little in our hiſtory, they will find, that in Fergusius, firſt King of Scotland, Son of Farquhard King of Ireland, his time, the Murrays having joined with him againſt the Picts, and carried the day, in the diviſion made by the king of ſeveral lands amongſt his Nobles and Captains, the whole country of Murray, and many more lands in the South, were given to your Lordſhip's predeceſſors, and ſo what given in Corbredus time but a confirmation of what formerly granted in the time of Fergusius. Nor need I come over, how your predeceſſors were Barons of Balgour, and many other lands, and afterwards Earl of Tullibarden; and how your Lordſhip's grandfather, eldeſt ſon of that noble family, married the heretrix of Athole, thereby, and by merit and virtues, adding and enlarging your poſſeſſion, in which your Lordſhip and predeceſſors by loyalty are alſo inveſted and cled with divers juriſdictions, regalities, ſtewartries, and the like. And to conclude, I wiſh the the ſame may long continue with your Lordſhip, and in your race: and expect your Lordſhip will chearfully accept of this ſmall offering, from,

My Noble Lord,

Your Lordſhips moſt humble

and devoted ſervant,

GEO. DALLAS.

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PASSING
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12. *The gifts to be the King's doctor, ſurgeon and apothecary.*
13. *Gifts to be the King's maſter-printer, maſter-maſon, maſter-wright, bower, ſlater, taylor; and one of each trade, and ſeveral other gifts,* &c.

GIFT *of a Man's Eſcheat to himſelf, when the Conſtitution of the Exchequer goes by a Lord high Treaſurer, and Treaſurer-Depute.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of his Majeſty's right truſty and well beloved couſins and familiar counſellors, W. D. of Q. Lord high treaſurer, comptroller, collector and receiver general of all his Majeſty's rents, and new augmentations within his High-

neſs's ancient kingdom of Scotland, and of I. H. of K. his Majeſty's treaſurer-depute in the ſaids offices: And ſicklike, with the ſpecial advice and conſent of the remanent Lords, and others of his Highneſs's exchequer of the ſaid kingdom, his Majeſty's commiſſioner ORDAINS a letter of gift to be made, and paſt under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, to, and in favours of A. B. of —— his heirs and aſſignees, one or more, of the eſcheat of all goods, gear, debts, ſums of money, jewels, gold, ſilver, coined and uncoined, inſight, pleniſhing, horſe, nolt, ſheep, corns, cattle, bonds, obligations, tickets, compts, decreets, ſentences, and of all other goods and gear eſcheatable whatſoever, as well not named as named, which pertained of before to the ſaid A. B. the time after-ſpecified of his denunciation to the horn, for the cauſe after mentioned, or which has accreſced to him ſinſyne, or ſhall happen to accreſce, appertain and belong to him at any time hereafter during his rebellion, now pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands, and at his gift and diſpoſition, by reaſon of eſcheat laws and practique of this kingdom, and inherent privilege of his Majeſty's crown, through being of the ſaid A. B. upon the —— day of —— 17— years, orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of C. D. of —— for not payment making to him of the ſum of —— Scots money of principal, and of the ſum of ------ money foreſaid of expences, and annualrent of the ſaid principal ſum, contained in a bond granted by the ſaid A. B. to him thereupon, of the date the ---- day of ---- 17---- years, regiſtered in the books of council and ſeſſion the ---- day of ---- 17---- years, as the ſaids letters of horning, and executions thereof duly regiſtered, conform to the act of parliament, in themſelves more fully proport: *With full power* to the ſaid A. B. and his foreſaids, to retain, poſſeſs, bruik, enjoy, intromit with, uplift, uſe and diſpoſe upon the ſaids goods, gear, debts, ſums of money, and other eſcheatable goods and gear above ſpecified, and to call, follow, charge and purſue therefor, as accords of the law, decreets of declarator, and others requiſite in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put; and upon receipt and payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe in relation to the premiſſes, that the ſaid A. B. might have done therein himſelf, at any time before the ſaid rebellion, or that his Majeſty, with conſent foreſaid, might have done therein at any time ſinſyne, and that freely, quietly, well and in peace, but any revocation, contradiction, obſtacle or againcalling whatſoever; and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

GIFT *of a Man's Eſcheat and Liferent to himſelf, when the Conſtitution of the Treaſury goes in Commiſſion, and not by a Treaſurer Principal and Depute.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of his Majeſty's right truſty and well beloved couſins, and familiar counſellors, G. E. of A. Lord high chancellor of his Highneſs's ancient kingdom of Scotland, and of —— Lords commiſſioners of his Majeſty's treaſury, comptrollers, collectors, and general receivers of all his Majeſty's rents and new augmentations within the ſaid kingdom: And ſicklike, with advice and conſent of the remanent Lords, and others of his Majeſty's exchequer of the ſaid kingdom, his Highneſs's commiſſioner ORDAINS a letter of gift to be made, and paſt under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, to, and in favours of A. B. of —— his heirs and aſſignees, one or more, of the eſcheat of all goods, gear, debts, ſums of money, jewels, gold, ſilver, coined and uncoined, inſight, pleniſhing, horſe, nolt, ſheep, corns, cattle, bonds, obligations, tickets, accompts, decreets, ſentences, and of all other goods and gear eſcheatable whatſoever, as well not named as named, which pertained of before to the ſaid A. B. of —— the time after ſpecified of his denunciation to the horn, for the cauſe after mentioned, and which has accreſced, fallen, appertained and belonged to him at any time ſinſyne, or ſhall happen to fall, accreſce, appertain and belong to him in any time coming during his rebellion, now pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands, and at his gift and diſpoſition, by reaſon of eſcheat laws and practique of this kingdom, and inherent privilege of his crown, through being of the ſaid A. B. upon the — day of — 17— years, orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of C. D. of —— for not payment making to him of the ſum of —— Scots money of principal, with the ſum of ------- money foreſaid of liquidate expences, together with the ordinary annualrent of the ſaid principal ſum, contained in a bond granted by the ſaid A. B. to the ſaid C. D. thereupon, of the date the --- day of ---- 17--- years, regiſtered in the books of council and ſeſſion the --- day of ---- 17--- years, together alſo with the ſaid A. B. of ------- his liferent eſcheat of all lands, heritages, tenements, annualrents, tacks, ſteadings, rooms, poſſeſſions, and others whatſoever pertaining and belonging to the ſaid A. B. holden by him of his Majeſty, now alſo pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands, and at his gift and diſpoſition by reaſon foreſaid, through being of the ſaid A. B. orderly denounced rebel, and put to the horn, by virtue of the ſaids letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of the ſaid C. D. in manner, at the time, and for the cauſe above mentioned, and through the ſaid A. B. his contemptuous abiding and remaining at the horn, attour the ſpace of year and day unrelaxed therefrom, together alſo with the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaids lands and others foreſaid, of all years

and terms bygone, ſince the expiring of the ſaid year and day, and in all time coming during the ſaid A. B. his lifetime, and all action, purſuit and inſtance competent, or that may be competent to his Majeſty thereupon, as the ſaids letters of horning, and executions thereof, duly regiſtered, conform to the act of parliament, in themſelves more fully proport: *With full power* to the ſaid A. B. and his foreſaids, to retain, intromit with, uplift, aſk, crave, and receive the foreſaids goods, gear, debts, ſums of money, and other eſcheatable goods and gear above ſpecified, falling under the compaſs of the ſaid ſingle eſcheat, and to occupy, labour, manure and poſſeſs the ſaids lands, and others foreſaids pertaining and belonging to him, and that either by himſelf or tenants, as they ſhall think fit and expedient, and to intromit with, uplift, aſk, crave and receive the haill mails, duties, cuſtoms and caſualties thereof, ſince the expiring of the ſaid year and day, and in all time coming during the ſaid A. B. his lifetime, and to ſet and raiſe tenants, uſe warning, proſecute removing, and to call and purſue for the ſaids goods, gear, debts, ſums of money, mails, duties, and others foreſaid (as well falling under the ſaid liferent as ſingle eſcheat) before whatſomever judge or judges competent, decreets of declarator, removing, mails and duties, and others requiſite in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put; and upon payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe the ſaid A. B. might have done therein himſelf at any time before the ſaid rebellion, or expiring of the ſaid year and day, or that his Majeſty might do therein at any time ſinſyne, and that freely, quietly, well and in peace, but any revocation; and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

GIFT *of a Man's ſingle Eſcheat in Favours of his Creditor.*

OUR SOVEREIGN LORD *(here take in the conſents, according to the conſtitution of exchequer for the time, whereof there is a pattern in either caſe formerly ſet down, and then ſay)* ORDAINS a letter of gift to be made, and paſt under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, to and in favours of C. D. of —— his heirs and aſſignees, one or more, of the eſcheat of all goods, gear, debts, ſums of money, jewels, gold, ſilver, coined or uncoined, utenſils and domicils, horſe, nolt, ſheep, corns, cattle, bonds, obligations, decreets, ſentences, compromits, and all other goods and gear eſcheatable whatſomever, as well not named as named, which pertained of before to A. B. of —— the time after ſpecified of his denunciation to the horn, for the cauſe after mentioned, or which have accreſced, fallen, appertained and belonged to him at any time ſinſyne, or which ſhall happen to fall, accreſce, appertain and belong to him in any time coming, during his rebellion, now pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands,

hands, and at his gift and diſpoſition, by reaſon of eſcheat laws and practique of this kingdom, and inherent privilege of his Majeſty's crown, through being of the ſaid A. B. upon the — day of —— 17— years, orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of the ſaid C. D. for not payment making to him of the ſum of —— Scots money of principal, with the ſum of —— money foreſaid of expences, and annualrent of the ſaid principal ſum, contained in a bond granted by the ſaid A. B. to him thereupon, of the date the —— day of —— 17— years, regiſtered in the books of council and ſeſſion the —— day of —— 17— years, (6) as the ſaids letters of horning, and executions thereof, duly regiſtered, conform to the act of parliament, in themſelves more fully proport: *With full power* to the ſaid C. D. as donatar above ſpecified, and his foreſaids, to intromit with, uplift, aſk, crave and receive the foreſaids goods, gear, debts, ſums of money, and others above mentioned, falling under the compaſs of the ſaid eſcheat, and to call, follow, charge and purſue therefor, as accords of the law, decreets of declarator, both general and ſpecial, and others requiſite in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put; and upon payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe the ſaid A. B. might have done therein himſelf at any time before the ſaid rebellion, or as his Majeſty, with conſent foreſaid, might have done therein (by the laws and practiques of this kingdom) at any time ſinſyne, and that freely, quietly, well and in peace, but any revocation, contradiction, obſtacle, or again calling whatſoever; and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

GIFT *of a Man's Eſcheat and Liferent to a Creditor.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here take in the conſents according to the former direction, and then ſay)* ORDAINS a letter of gift to be made, and paſt under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, to and in favours of C. D. of — his heirs and aſſignees, one or more, of the eſcheat of all goods, gear, *(here take in the words of the former gift, until ye come to the* (6) *figure, and then ſay) Together with the ſaid* A. B. his liferent eſcheat of all lands, heritages, tenements, annualrents, tacks, ſteadings, rooms, poſſeſſions, and others whatſoever, pertaining and belonging to the ſaid A. B. of —— holden by him immediately of his Majeſty, wherever the ſame lies within this kingdom, with the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame, and that of all years and terms bygone, ſince the expiring of year and day next after the ſaid A. B. his denunciation to the horn, for the cauſes above written, and ſicklike of all years and terms in time coming, during his lifetime, now alſo pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands, and

that

that his royal gift and diſpoſition, by reaſon foreſaid, through the ſaid A. B. his being orderly denounced rebel, and put to the horn, by virtue of the ſaid letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of the ſaid C. D. in manner, for the cauſe, and at the time above expreſſed, and through his contemptuous lying, remaining and abiding thereat, attour the ſpace of year and day unrelaxed therefrom, as the ſaids letters of horning, with the executions thereof, duly regiſtered, conform to the act of parliament, in themſelves more fully proport: *With full power* to the ſaid C. D. as donatar above ſpecified, and his foreſaids, to intromit with, uplift, aſk, crave and receive the foreſaids goods, gear, debts, ſums of money, and other eſcheatable goods and gear above mentioned, falling under the compaſs of the ſaid *ſingle eſcheat*; and to occupy, labour, and manure, and poſſeſs the ſaids lands, and others foreſaid, pertaining and belonging to the ſaid A. B. and that either by themſelves or tenants, as they ſhall think expedient; and to intromit with, uplift, aſk, crave and receive the haill mails, farms, kains, cuſtoms, caſualties, profits and duties thereof, and others foreſaid, falling under the compaſs of the ſaid liferent eſcheat, and that of all years and terms bygone ſince the expiring of the ſaid year and day, and in all time coming during the ſaid A. B. his lifetime, and to ſet and raiſe tenants, uſe warning, proſecute removing, and to call and purſue for the ſaids goods, gear, debts, ſums of money, duties, and others foreſaid, as well falling under the ſaid liferent as ſingle eſcheat, before whatſoever judge or judges competent, decreets of declarator, removing, mails and duties, and others requiſite in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put; and upon payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe the ſaid A. B. might have done therein himſelf at any time before the ſaid rebellion, or expiring of the ſaid year and day, or that his Majeſty, with conſent foreſaid, might have done therein at any time ſince, and that freely, quietly, well and in peace, but any revocation, contradiction, obſtacle, or again-calling whatſoever; and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

Nota, There is no gift of eſcheat granted in exchequer without a back-bond, unleſs the king diſpenſe with it, and that very ſeldom: So tender are kings of lawful creditors, yea, of the debitors themſelves.

GIFT *of Eſcheat of a Huſband to his Relict for her own and Childrens Behoof, without Back-bond.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents according to the conſtitution of exchequer for the time, and then ſay*) ORDAINS a letter to be made, and paſt under his Majeſty's privy ſeal, in due and competent form, giving, granting, and diſponing, likeas

likeas his Majeſty hereby gives, grants and diſpones to his Highneſs's lovit D. B. I. relict of the deceaſed Sir I. F. of ------- and to her heirs and aſſignees, one or more, the eſcheat of all and ſundry moveable goods, gear, debts, tacks, acts, contracts, actions, obligations, decreets, ſentences, horſe, nolt, ſheep, corns, cattle, inſight, pleniſhing, mails, farms, profits and duties of lands, ſums of money, jewels, gold, ſilver, coined or uncoined, and all other goods and gear eſcheatable whatſoever, which pertained of before to the ſaid deceaſed Sir I. F. of ------- the time of his denunciation to the horn, for the cauſes under written, or which has accreſced, fallen, and appertained to him at any time in his lifetime during his rebellion, and remaining at the horn, for the cauſes after mentioned, now fallen and become in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by reaſon of eſcheat laws and practique of the ſaid kingdom, and inherent privilege of the crown, through being of the ſaid deceaſed Sir I. F. orderly denounced rebel, and put to the horn upon the — day of ---- 17---- years, by virtue of letters of horning, raiſed, uſed, and executed againſt him at the inſtance of W. D. burgeſs of ------ for not payment making to him of the ſum of ------- Scots money of principal, ------- of expences, and annualrent of the ſaid principal ſum reſting, contained in a bond made and granted by the ſaid Sir I. F. to the ſaid W. D. thereupon, dated the ---- day of ---- 17---- years, and regiſtered in the books of council and ſeſſion the ---- day of ---- thereafter, together with the liferent eſcheat of all lands, heritages, tacks, ſteadings, rooms, poſſeſſions, heritable bonds and debts, mills, woods, fiſhings, and others whatſoever, pertaining and belonging to the ſaid deceaſed Sir I. F. and that of all years and terms bygone ſince the expiring of year and day after the ſaid denunciation, and during the ſaid Sir I. F.'s lifetime, now alſo fallen and become in his Majeſty's hands, and at his royal gift and diſpoſition, by reaſon foreſaid, and through his remaining at the horn attour the ſpace of year and day unrelaxed therefrom, as the ſaids letters of horning, with the executions thereof, duly regiſtered, conform to the act of parliament, more fully proport: *With full power* to the ſaid D. B. I. and her foreſaids, to intromit with, and uptake all and ſundry the foreſaid eſcheat goods, gear, corns, cattle, inſight, pleniſhing, debts, ſums of money, and others above written, which pertained of before to the ſaid deceaſed Sir I. F. the time of his denunciation to the horn, for the cauſe foreſaid, or has accreſced, fallen, and appertained to him, at any time in his lifetime during his rebellion, and remaining at the horn, for the cauſe above written, together with the benefit of the ſaid liferent eſcheat, and thereupon to diſpone at their pleaſure, and to call, follow, and purſue therefor, acquittances and diſcharges thereof to give, grant, ſubſcribe and deliver, and generally all and ſundry other things to do, uſe and exerce thereanent, freely and quietly, *&c.* but revocation, *&c.* And his Majeſty, of his prerogative royal, certain knowledge, and proper motive, bounty and clemency, ordains no back-bond to be taken in exchequer of the ſaid donatrix, further than to employ the benefit of the ſaid eſcheat, for the uſe of herſelf and fatherleſs children, as to their maintenance, education and proviſion, as far as the ſame may extend to; and for which theſe preſents ſhall be a ſufficient warrant to the Lords of treaſury and exchequer;

and

and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

Nota, This gift (as all of that nature) is under the king's hand; and if the exchequer grant any, they have the king's letter for it, and is recorded in exchequer. *Nota*, 2. There be eſcheats granted upon horning, for performance of obligements and deeds, albeit there be no liquid ſum ſafe penalty. 3. There be ſingle eſcheats granted upon ſentences of the juſtice courts, in all cauſes criminal, where the party accuſed is convicted. And, 4. The eſcheats of *nonaccomptants* in exchequer, are uſually gifted to the caſh-keeper for the king's behoof; and the ſaids gifts differ in nothing from the former (ſet down at length) but as to the *modus vacandi*, and how the caſualty falls in the king's hands. As for example, the eſcheat of a perſon forfeited muſt ſay, *Through the ſentence and doom of forfeiture given and pronounced againſt him before the Lord High Juſtice-General, and Lords of Juſticiary, upon the —— day of —— 17— years, for the crime of treaſon therein ſpecified.*

GIFT *of* NON-ENTRY *of an* Annualrent.

OUR SOVEREIGN LORD, with advice and conſent of *(here inſert the conſents according to the conſtitution for the time, and then ſay)* ORDAINS a letter of gift to be made, and paſt under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, giving, granting and diſponing to his Majeſty's lovit I. R. of —— his heirs and aſſignees, one or more, the non-entry duties of an annualrent of —— Scots money yearly, upliftable at two terms in the year, Whitſunday and Martinmas, by equal portions, forth of all and haill the lands of *(here inſert the lands as they are in the ſaſine)* or forth of any part or portion thereof, and readieſt mails, farms, profits, and duties of the ſame, and that of all years and terms bygone that the ſame has been in his Majeſty's hands, or in the hands of his royal progenitors, ſuperiors of the ſaid annualrent, by and through the deceaſe of I. W. of that ilk, laſt lawful and immediate heritable tenant and vaſſal to one or other of them therein; and ſicklike of all years and terms to come, ay and while the lawful entry of the righteous heir or heirs thereto: *With full power* to the ſaid I. R. and his foreſaids, to intromit with, uplift, aſk, crave and receive the annualrent above mentioned, out of the lands and others above rehearſed, of all years and terms bygone and to come, and thereupon to diſpone at their pleaſure, and to call and purſue therefor as accords of the law, decreets of declarator general and ſpecial thereupon to obtain and recover, and the ſame to due execution cauſe be put; and upon payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe his Majeſty, with conſent foreſaid, might do therein himſelf at any time before the granting of this preſent gift, and that freely, quietly, well and in peace, but any revocation, contradiction, or again calling whatſomever; and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful, and with command therein to all and ſundry his Majeſty's lieges, that they, nor none of them, preſume nor take upon

upon hand, to make any let, ſtop, trouble or impediment to the ſaid I. R. donatar above ſpecified, or his foreſaids, in the peaceable poſſeſſion, bruiking, joyſing, uptaking, intromitting with, uſing and diſponing upon the foreſaid non-entry-duties of the annualrent above ſpecified, but that they ſuffer and permit them peaceably to bruik and enjoy the ſame, intromit therewith, uſe and diſpone thereupon at their pleaſure, under all higheſt pain and charge that after may follow. *Given at*

GIFT *of NON-ENTRY of Lands holden of the King.*

OUR SOVEREIGN LORD, with conſent of *(here take in the conſent* ut ſupra, *and then ſay)* ORDAINS a letter of gift to be made, and paſſed under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, giving, granting, and diſponing to his Majeſty's lovit R. W. of —— his heirs and aſſignees, one or more, the non-entry mails, farms, profits and duties, of all and haill the lands of *(here inſert the lands, and others, whereof the non-entry is craved, as they are in the ſaſine, and then ſay)* and that of all years and terms bygone, that the ſame lands and others foreſaid have been in the hands of his Majeſty, or any of his moſt royal progenitors, by reaſon of non-entry, through and ſince the deceaſe of I. B. of —— C. D. of —— or any others, their predeceſſors or ſucceſſors, laſt immediate heritable tenants and vaſſals to their Majeſties therein, or through reduction of whatſoever retour or retours, infeftments, or other rights granted to them, or either of them, or otherways; and ſicklike of all years and terms to come, ay and while the lawful entry of the righteous heir or heirs thereto, to be holden the ſaids non-entries, mails, farms, profits and duties of the ſaids lands and others foreſaid, by the ſaid R. W. and his foreſaids, of his Majeſty and his royal ſucceſſors during the ſaid ſpace, with all and ſundry commodities, freedoms, eaſements, and righteous pertinents thereof whatſoever pertaining and belonging thereto: *With full power* to the ſaid R. W. of —— and his foreſaids, to intromit with, uplift, aſk, crave and receive the haill non-entry mails, farms, profits and duties of all and haill the lands and others above mentioned, with the pertinents, as well of all years and terms bygone ſince the ſaid deceaſe, as in time coming, during the haill ſpace of the foreſaid non-entry, and ay and while the lawful entry of the righteous heir or heirs thereto, and to uſe and diſpone thereupon at their pleaſure, and to occupy and poſſeſs the ſaids lands, and others foreſaid, by themſelves, or ſet the ſame to tenants, as they ſhall think expedient, with court, plaint, herezald, and to call and purſue for the ſaid non-entry duties, decreets of declarator and others needful in the premiſſes to recover, and the ſame to due execution cauſe be put; and upon payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe his Majeſty, with conſent foreſaid, might do therein himſelf, before the granting of theſe preſents; and that freely, quietly, well and in peace, but any revocation,

vocation, contradiction, obſtacle, impediment, or again calling whatſoever; and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

Nota, Albeit the lands be only in non-entry; 2. Becauſe the apparent heir may be major, and his own fault he is not entered, yet there may be a marriage due, in caſe the lands hold ward (or feu *cum maritagio*) and that the apparent heir was not married before the deceaſe of the laſt vaſſal; in which caſe, the marriage would be diſponed, and ſo conveyed in all the places of the gift, proper for that effect.

GIFT *of Ward, Non-Entry, Relief and Marriage, by his Majeſty, as King, Prince and Steward of* Scotland.

OUR SOVEREIGN LORD, taking into his royal conſideration the great trouble, care and faithfulneſs of his right truſty and well-beloved counſellor Sir G. M. of —— his Majeſty's advocate in Scotland, and how loyally and legally he hath diſcharged his duty in his Majeſty's ſervice, ever ſince he was firſt intruſted therein (to his Majeſty's great ſatisfaction) upon which account, his Majeſty being graciouſly deſirous, upon all fit occaſions, to confer and beſtow on him ſome marks, as well of his royal bounty, as of his favour; *Therefore*, our ſaid Sovereign Lord, with the ſpecial advice and conſent of the Lords and others commiſſioners of his Majeſty's treaſury and exchequer, ORDAINS a letter of gift to be made, paſſed and expede under his Highneſs's privy ſeal of that his ancient kingdom of Scotland, in due and competent form, giving, granting, and diſponing, likeas his Majeſty, with advice and conſent foreſaid, by theſe preſents, gives, grants, and diſpones to, and in favours of the ſaid Sir G. M. of —— his heirs and aſſignees, one or more, the ward and non-entry mails, farms, profits and duties of the lands of —— and others, with their pertinents, and haill kains, cuſtoms and caſualties of the ſame, lying within the ſheriffdom of —— which pertained to umquhil —— C. of —— holden by him, his predeceſſors and authors, of his Majeſty, either as king, prince, or ſteward of Scotland, and that of all years and terms bygone, that the ſame hath been in his Majeſty's hands, or in the hands of his royal predeceſſors, ſuperiors thereof, or any part of the ſame, by reaſon of ward and non-entry, or either of them, by or through the deceaſe of the ſaid —— C. or any other his predeceſſors and authors, laſt vaſſals to his Majeſty therein; and ſicklike, in time coming, ay and while the lawful entry of the righteous heir or heirs thereto, they being of perfect age, with the relief thereof when it ſhall happen, together with the marriage of —— C. now of —— and failing of him by deceaſe, the marriage of the next heir who ſhall happen to ſucceed to the foreſaids lands, with the haill profits, avails, emoluments and caſualties ariſing, or that may accreſce and ariſe from the ſaids marriages: *With full power* to the ſaid Sir G. M. and his foreſaids, to intromit with,

with, purſue for, and uplift all and ſundry the ſaids mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaids lands and others, with their pertinents whereſoever they be, and that of all years and terms bygone and to come, that the ſame have been, or may be in his Majeſty's hands, in manner above ſpecified, during the ſpace of the ſaid ward, non-entry, or either of them, and ay and while the lawful entry of the righteous heir, being of perfect age, and thereupon, with the foreſaid marriages, and haill benefits and caſualties thereof, and relief when it ſhall happen, to uſe and diſpone at their pleaſure, and to call and purſue therefor, as accords of the law, decreets of declarator and other ſentences therefor to recover, compone, tranſact and agree thereanent, acquittances and diſcharges thereof to give, and to occupy and poſſeſs the ſaids lands, and pertinents of the ſame, during the ſpace above written, with their own goods, or ſet the ſame to tenants, with all and ſundry other freedoms, privileges, liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* and that the ſaid letter be further extended in the beſt form, with all clauſes requiſite. *Given at*

GIFT *of the Ward of the Laird of* Roſythe's *Marriage to himſelf, upon the King's Letter.*

OUR SOVEREIGN LORD, with advice and conſent of *(here inſert the conſents according to the conſtitution for the time, and then ſay) in purſuance of his Majeſty's letter, directed to the ſaids Lords of treaſury, dated ----- whereby his Majeſty appoints W. S. of R. his ſignature of his eſtate, upon his brother's reſignation, to be paſt; and in caſe of his brother's deceaſe before the doing thereof, that his Majeſty's pleaſure to the ſaids Lords is, that the ſaid W. S. ſhall have the ward of his own marriage:* ORDAINS therefore a letter to be paſſed and expede under his Majeſty's privy ſeal of Scotland, giving, granting, and diſponing to W. S. now of R. his heirs and aſſignees, the ward of his own marriage, with all profits and commodities of the ſame that might have fallen to his Majeſty, or any other donatar, by the laws and practique of this kingdom, which marriage vaiks and falls in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by and through the deceaſe of J. S. late of R. brother to the ſaid W. before the ſaid W. obtained public infeftment of his brother's eſtate, (holding ward) upon his reſignation foreſaid: *With full power* to the ſaid W. S. to diſpoſe of himſelf in marriage at his own pleaſure, and to uptake and receive the whole profits of the ſame, and to apply them to his own uſe, and to uſe and diſpone thereupon at his pleaſure, and to do all other things requiſite in that behalf, which any donatar, in the like caſe, has done, or may do by the laws and practique of this kingdom: Likeas, for his better ſecurity, his Majeſty, with conſent foreſaid, renounces, quit-claims, and for ever overgives, and diſcharges in the ſaid W. his own favours the ward of his marriage, and all benefit, profits and

commodities thereof; and ordains the ſaid letter to be farther extended, with all clauſes needful. *Given at*

Nota, Writers have need to be well informed as to the *modus vocandi*, before they form gifts of this nature; for Sir Mungo Murray having obtained a gift of the ward of N. R. and marriage of the laird of Innerallachie, and miſſing a ſtep, Sir William Purvers took a new gift better founded, (and, I ſuppoſe, for the gentleman's behoof) and appearing in Sir Mungo and his aſſignees their declarator of the firſt gift, was preferred by the Lords, after a moſt litigious debate, and will be found amongſt my Lord Stair's deciſions, worthy of your reading and conſideration.

GIFT *of Penſion to my Lord Chancellor.*

OUR SOVEREIGN LORD conſidering, that by a patent, of the date of theſe preſents, he hath been graciouſly pleaſed (upon the conſiderations therein mentioned) to give, grant and diſpone, during his royal pleaſure, the great truſt, place and office of high Chancellor of his ancient kingdom of Scotland, unto his right truſty and right well beloved couſin and counſellor Sir G. G. of ------- preſent high chancellor; and his Majeſty conſidering the great charge and expence he muſt needs be at upon that occaſion; *Therefore*, ORDAINS a letter to be made and paſt under his Majeſty's privy ſeal of his ſaid kingdom, giving, granting and diſponing, likeas his Majeſty, by theſe preſents (with advice and conſent of the Lord high treaſurer, treaſurer-depute, and remanent Lords and others of his Majeſty's exchequer), gives, grants and diſpones unto the ſaid Sir G. G. of H. as his high chancellor aforeſaid, a yearly penſion of fifteen hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure only; *commanding* hereby his Majeſty's treaſurer-principal, treaſurer-depute, his caſh-keeper, and all collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever, within his Majeſty's ſaid kingdom for the time being, readily to anſwer and pay the foreſaid penſion (in manner already mentioned) to the ſaid Lord high chancellor, whoſe receipt for the ſame, in whole or in part, ſhall be to them, and to the Lords and others auditors of their accompts (for allowing the ſame) a ſufficient warrant: And his Majeſty ordains the ſaid letter to be farther extended in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Windſor-Caſtle the firſt day of May* 1682, *and of his Majeſty's reign the* 34*th year.*

GIFT

GIFT *of Penſion to my Lord high Treaſurer.*

OUR SOVEREIGN LORD taking into his royal conſideration, that his right truſty, and right well beloved couſin and counſellor W. M. of Q. Our high treaſurer, muſt needs be at a great deal of conſtant charge and expence upon the occaſion of his being now appointed his Majeſty's high treaſurer, and treaſurer-principal of his ancient kingdom of Scotland; *Therefore*, his Majeſty ORDAINS a letter to be made and paſt under the privy ſeal of his ſaid kingdom, giving, granting and diſponing, likeas his Majeſty, by theſe preſents, (with the advice and conſent of the Lord treaſurer-depute, and remanent Lords and others of his Majeſty's exchequer) gives, grants and diſpones unto the ſaid W. M. of Q. as his Majeſty's high treaſurer, and treaſurer-principal aforeſaid, a yearly penſion of fifteen hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure only; *commanding* hereby his Majeſty's treaſurer-depute, his Majeſty's caſh-keeper, and all collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever within his Majeſty's ſaid kingdom for the time being, readily to anſwer and pay the foreſaid penſion (in manner already mentioned) to the ſaid Lord high treaſurer, whoſe receipt for the ſame, in whole or in part, ſhall be to them, and to the Lords and others auditors of their accompts (for allowing the ſame) a ſufficient warrant: And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Windſor-Caſtle the firſt day of May* 1682, *and of his Majeſty's reign the* 34*th year.*

GIFT *of Penſion to my Lord Privy-Seal.*

OUR SOVEREIGN LORD, taking into his royal conſideration the very great charge and expences which his right truſty, and right well beloved couſin and counſellor, J. M. of A. has been, and ſtill is at in the ſeveral ſtations wherein he is employed in his Majeſty's ſervice, and his Majeſty (for his further encouragement) being graciouſly deſirous to confer an additional mark of his royal favour and bounty upon him; *Therefore*, ORDAINS a letter to be made, and paſt under the privy ſeal of the ancient kingdom of Scotland, giving, granting and diſponing, likeas his Majeſty, by theſe preſents, (with advice and conſent of the Lord high treaſurer, treaſurer-depute, and remanent Lords and others of his Majeſty's exchequer,) gives, grants and diſpones unto the ſaid J. M. of A. a yearly penſion of five hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof

whereof the first term's payment is to be at Whitsunday next ensuing the date of these presents, and so forth, to continue yearly and termly thereafter, during his Majesty's pleasure only; *commanding* hereby his Majesty's treasurer-principal, treasurer-depute, his Majesty's cash-keeper, and all collectors and receivers of his Majesty's rents, revenues, customs, casualties, profits, and duties whatsoever, within his Majesty's said kingdom for the time being, readily to answer and pay the foresaid pension (in manner already mentioned) to the said J. M. of A, whose receipt for the same, in whole or in part, shall be to them, and to the Lords and others auditors of their accompts (for allowing the same) a sufficient warrant: And his Majesty ordains the said letter to be further extended, in the most ample and best form, with all clauses needful. *Given at the court of Windsor-Castle the first day of May* 1682, *and of his Majesty's reign the* 34*th year.*

Nota, That King Charles II. not only conferred the said pension upon the Marquis of Athole, but afterwards (and by and attour the same) conferred upon him and his successors in the office 900 l. Sterling a-year, and so continues.

GIFT *of Pension to my Lord Secretary.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be made and past under his Majesty's privy seal, of his Highness's ancient kingdom of Scotland, making mention, that his Majesty, taking into his royal consideration the great charges and expences which his right trusty, and right well beloved cousin and counsellor A. E. of M. must needs be at, upon the occasion of his constant attendance in his Majesty's service, as one of his Majesty's two secretaries of state for his said kingdom; *Therefore*, to have given and granted, likeas his Majesty, by these presents (with the advice and consent of his Majesty's right trusty and entirely beloved cousin and counsellor W. D. of Q. Lord high treasurer, his Majesty's right trusty and well beloved cousin and counsellor J. E. of K. Lord treasurer-depute, and of the rest of the Lords of the exchequer) gives and grants unto the said A. E. of M. as one of his Majesty's two secretaries of state for his said kingdom, a yearly pension of one thousand pounds Sterling money, out of the first and readiest of his Majesty's rents, revenues, customs and casualties whatsoever of his said kingdom, to be paid unto him at two terms every year, Whitsunday and Martinmas, by equal portions, whereof the first term's payment is to be at Whitsunday next ensuing the date of these presents, and so forth, to continue yearly and termly thereafter, during his Majesty's pleasure only; *requiring* hereby the said Lord high treasurer, Lord treasurer-depute, cash-keeper, collectors and receivers of his Majesty's rents, revenues, customs and casualties aforesaid, readily to answer and pay the said pension (in manner, and during the space foresaid) to the said A. E. of M. whose receipt for the same, in whole or in part (together with these presents), shall be to them, and all others who may be therein respectively concerned any manner of way;

and

and particularly to the Lords auditors of their accompts, for allowing the ſame, a ſufficient warrant: And his Majeſty ordains the ſaid letter to be further extended in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall, the 10th day of February 1685, and of his Majeſty's reign the firſt year.*

GIFT *of Penſion to my Lord Preſident.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be made, and paſt under his Majeſty's privy ſeal of his ancient kingdom of Scotland, giving, granting, and diſponing, likeas his Majeſty, by theſe preſents (with the ſpecial advice and conſent of the right honourable the Lords commiſſioners of his Majeſty's treaſury, and the reſt of the Lords of exchequer) gives, grants and diſpones unto his Majeſty's right truſty and right well-beloved counſellor Sir G. L. of C. preſident of his Majeſty's college of juſtice, a yearly penſion of ſeven hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Martinmas next enſuing the date of theſe preſents, and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure only; *requiring* the ſaids Lords commiſſioners of his Majeſty's treaſury, caſh-keeper, and all collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever within his Majeſty's ſaid kingdom for the time being, readily to anſwer and pay the foreſaid penſion (in manner already mentioned) to the ſaid Sir G. L. whoſe receipt for the ſame, in whole or in part, ſhall be to them, and to the Lords auditors of their accompts reſpectively, for allowing the ſame, a ſufficient warrant: Declaring hereby, that the ſaid yearly penſion of ſeven hundred pounds Sterling, is over and above any other penſion or allowance formerly granted by his Majeſty to the ſaid Sir G. L. And his Majeſty ordains the ſaid letter to be farther extended in the moſt ample and beſt form, with all clauſes needful. *Given at the court of Windſor, the 30th day of July 1686, and of his Majeſty's reign the ſecond year.*

Another GIFT *of Penſion to Sir* George Gordon *of* Haddo (*now Earl of* Aberdeen) *as Preſident of the College of Juſtice, of a pure and neat ſtyle.*

OUR SOVEREIGN LORD, conſidering the eminent abilities, and known loyalty and fidelity of his truſty and well-beloved counſellor S. G. G. of Haddo; and having formerly made and appointed him preſident of his Majeſty's college of juſtice, in place of S. J. D. of S. late preſident thereof,

conform

conform to the tenor of the commiſſion under his Majeſty's great ſeal, of the date the — day of October laſt, nominating and appointing the Lords of ſeſſion therein mentioned and deſigned, both ordinary and extraordinary, and thereby appointing him to be preſident of the college of juſtice; and that neceſſary it is, for his Majeſty's honour and the good of his ſervice, that a place of ſo much eminency be ſufficiently provided and encouraged for ſupporting the grandeur thereof; and that it is juſt and reaſonable, that the penſion formerly given to the ſaid S. J. D. of S. be now ſettled upon the ſaid S. G. G. *Therefore*, his Majeſty, with advice and conſent of the Lords commiſſioners of his Majeſty's treaſury, and of his treaſurer-depute, and of the remanent Lords and others of his Highneſs's exchequer, ORDAINS a letter to be made, and paſt under his Majeſty's privy ſeal of his ancient kingdom of Scotland, giving, granting, and diſponing, likeas his Majeſty, by the tenor hereof, with conſent foreſaid, gives, grants and diſpones to his ſaid truſty counſellor S. G. G of H. preſident of his college of juſtice, for all the days of his natural lifetime, a yearly penſion of five hundred pounds Sterling, to be paid to him furth of the firſt and readieſt of his Majeſty's rents, revenues, and caſualties whatſoever, at two terms in the year, W. and M. by equal portions, beginning the firſt terms payment thereof at the feaſt and term of M. 1681, and from thenceforth to continue yearly and termly during all the days of his lifetime, as ſaid is: *With full power* to him, by himſelf, or by his ſervants, or others impowered by him, for his uſe, to aſk, crave, receive and intromit with the ſame yearly and termly at the terms above mentioned, and to give acquittances and diſcharges thereupon, which are hereby declared to be ſufficient to the receivers thereof, and generally to do all and ſundry other things thereanent, ſicklike, and as freely in all reſpects as the ſaid S. J. D. of S. or any others who had any penſion from his Majeſty within his kingdom of Scotland, did, or might have done anent the premiſſes: *Commanding* hereby the ſaids commiſſioners of his Majeſty's treaſury, treaſurer and treaſurer-depute preſent and for the time being, and their ſucceſſors, receivers of, and intromitters with his Majeſty's rents, revenues, and caſualties whatſoever, any manner of way, to make good and ready payment to the ſaid S. G. G. and his foreſaids, of the ſaid yearly penſion, at the terms above mentioned, as alſo the ſaids Lords and others auditors of their accompts, to allow the ſame ſo paid accordingly; for all which, theſe preſents are, and ſhall be to them, and every one of them, a ſufficient warrant. *Given at the court at Whitehall, the 27th day of October* 1681, *and of his Majeſty's reign the 33d year.*

GIFT *of Penſion to my Lord Regiſter.*

OUR SOVREIGN LORD, taking into his royal conſideration, that his Majeſty's right truſty and well beloved counſellor, S. G. M. of T. clerk of his Majeſty's councils, regiſters and rolls, in his ancient kingdom of Scotland, muſt needs be at great charges and expences, upon occaſion of his conſtant

conſtant attendance at Edinburgh, in order to the performance of his duty in his Majeſty's ſervice; *Therefore*, ordains a letter to be made, and paſt under the privy ſeal of his ſaid kingdom, giving, granting, and diſponing, likeas, his Majeſty, by theſe preſents (with advice and conſent of his right truſty and right well beloved couſin and counſellor W. D. of Q. Lord high treaſurer, his right truſty and well beloved couſin and counſellor J. E. of K. Lord treaſurer-depute, and of the remanent Lords of exchequer) gives, grants, and diſpones to the ſaid Sir G. M. of T. as clerk of his Majeſty's councils, regiſters and rolls aforeſaid, a yearly penſion of four hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure only; *commanding* hereby his Majeſty's treaſurer-principal, treaſurer-depute, caſh-keeper, and all collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever within his ſaid kingdom for the time being, readily to anſwer and pay the foreſaid penſion (in manner, and during the ſpace already mentioned) unto the ſaid Sir G. M. of T. whoſe receipt for the ſame, in whole or in part, ſhall be to them, and to the Lords auditors of their accompts, for allowing the ſame, a ſufficient warrant: And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court of Whitehall the 26th day of February* 1684-5, *and of his Majeſty's reign the firſt year.*

GIFT *of Penſion to my Lord Juſtice General* E. *of* Q.

OUR SOVEREIGN LORD having experience of the loyalty and affection to his Majeſty's ſervice, of his right-truſty and well-beloved couſin and counſellor W. E. of Q. *&c.* his Majeſty's juſtice general of his ancient kingdom of Scotland, and conſidering the pains and charges which he muſt needs ſuſtain, by the neceſſity of his repairing frequently to Edinburgh, and ſeveral other places, upon the occaſion of diſcharging his duty in the ſaid office of of juſtice general; *Therefore*, his Majeſty, with advice and conſent of the right honourable the Lords commiſſioners of his Majeſty's treaſury, and of the remanent Lords and others the commiſſioners of his Majeſty's exchequer of his ſaid kingdom, ORDAINS a letter to be made and paſſed under his privy ſeal, in due form, giving, granting, and diſponing, likeas, his Majeſty hereby gives, grants, and diſpones unto the ſaid W. E. of Q. as juſtice general, a yearly penſion of ſix hundred pounds Sterling money, to be paid unto him at two terms in the year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at the term of Martinmas, in this preſent year of God; *requiring* the ſaids Lords commiſſioners of his Majeſty's treaſury preſent, or that hereafter ſhall be treaſurers principal and deputes, and all receivers of his Majeſty's rents,

revenues, cuſtoms and caſualties whatſoever within the ſaid kingdom, to readily anſwer and pay the ſaid penſion unto the ſaid W. E. of Q. for doing whereof theſe preſents ſhall be to them, and unto the Lords auditors, for allowing the ſame in their accompts, a ſufficient warrant: And his Majeſty ordains the ſaid letter to be farther extended in the beſt form, with all clauſes needful. *Given at the court at Windſor-Caſtle the 12th day of June 1680, and of his Majeſty's reign the 32d year.*

GIFT *of Additional yearly Penſion to the ſaid* W. E. *of* Q. *as Juſtice General.*

OUR SOVEREIGN LORD, taking into his royal conſideration, that the yearly penſion of ſix hundred pounds Sterling money, granted by his Majeſty upon the 12th day of June 1680, to his right-truſty and well-beloved couſin and counſellor W. E. of Q. comes very far ſhort of the great charges which he doth ſuſtain, by his frequent reſorts to, and long abodes in Edinburgh about his Majeſty's ſervice, in ſeveral eminent ſtations, wherein he hath, upon all occaſions, behaved himſelf to his Majeſty's ſatisfaction, eſpecially in the late ſeſſion of parliament there; and his Majeſty being graciouſly deſirous to confer a new mark of his favour and bounty upon the ſaid W. E. as a further encouragement unto him to perſiſt in the ſame zeal, which heretofore he hath ſhown in his Majeſty's ſervice; *Therefore*, his Majeſty, with the advice and conſent of the right honourable the Lords commiſſioners of his Majeſty's treaſury, and of the remanent Lords, and others of his exchequer, ORDAINS a letter to be made, and paſſed under his privy ſeal of his ancient kingdom of Scotland, giving, granting, and diſponing, likeas, his Majeſty hereby gives, grants, and diſpones unto the ſaid W. E. of Q. an additional yearly penſion of five hundred pounds Sterling money, during all the days of his natural life, to be paid unto him, as in the preceding penſion *uſque ad finem.*

GIFT *of Baſtardy, where the Subject-matter conſiſts in a perſonal and moveable Eſtate.*

OUR SOVEREIGN LORD, with advice and conſent of *(here inſert the conſents according to the conſtitution for the time)* ORDAINS a letter of gift to be made, and paſſed under his Majeſty's privy ſeal, in due and competent form, giving, granting, and diſponing, likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones to J. S. of —— his heirs and aſſignees, one or more whatſoever, all and ſundry goods, gear, inſight, pleniſhing, merchant-ware, debts, ſums of money, jewels, gold, ſilver, coined or uncoined,

uncoined, contracts, bonds, obligations, aſſignations, tranſlations, diſpoſitions, tickets, acts, actions, decreets, ſentences, tacks, aſſedations, corns, cattle, horſe, nolt, ſheep, abulziements, and other goods and gear whatſoever, both heritable and moveable, and as well not named as named, which pertained of before to the deceaſed R. J. merchant in —— the time of his deceaſe, now pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands, and at his gift and diſpoſition, by reaſon of (6) baſtardy laws and practique of the ſaid kingdom, and inherent privilege of his Majeſty's crown, through the ſaid R. J. his being born baſtard, and deceaſing baſtard without lawful exiſting iſſue of his own body, or lawful diſpoſition made by him thereof at any time in his lifetime: *With full power* to the ſaid J. S. as donatar foreſaid, and to his heirs and aſſignees above ſpecified, to intromit with, uplift, aſk, crave, and receive the haill goods, gear, debts, ſums of money, and others above diſponed, both heritable and moveable, formerly pertaining to the ſaid R. J. and now to his Majeſty, by reaſon foreſaid, and thereupon to uſe and diſpoſe at their pleaſure; and, if need beis, to call and purſue therefor, as accords of the law, decreets of declarator and others in the premiſſes to obtain and recover, and the ſame to due execution cauſe be put, compone, tranſact, and agree thereanent, and, upon payment, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe the ſaid R. J. might have done at any time in his lifetime; or as his Majeſty, with conſent foreſaid, might do therein, by the laws and practique of this kingdom, at any time ſince his deceaſe, and that freely, quietly, *&c.* but any revocation, *&c.* and that the ſaid letter of gift be extended in moſt ample form, with all clauſes needful. *Given at*

GIFT *of Ultimus Hæres.*

OUR SOVEREIGN LORD, *(take in the former gift, till ye come to the (6) figure, and then ſay)* by reaſon of *ultimus hæres*, laws and practique of the ſaid kingdom, and inherent privilege of the crown, through the ſaid R. J. his deceaſe, without heirs lawfully begotten of his own body, and that there is none that in law can ſucceed as heir and executor to him within the tenth degree, or by whatſoever other manner of way, the ſame now falls, vaiks, and becomes in his Majeſty's hands, and at his gift and diſpoſition, diſpenſing always with the generality foreſaid for ever: *With full power* to the ſaid J. S. to conclude the gift *ut ſupra.*

A GIFT *of Baſtardy and* Ultimus Hæres *in one.*

OUR SOVEREIGN LORD, with advice and conſent of *(here inſert the conſents,* ut ſupra, *and write the other mediate gift, till ye come to the* (6) *figure, and then ſay)* by reaſon of baſtardy, or as *ultimus hæres,* or either of them, by the laws and practique of this kingdom, and inherent privilege of his Majeſty's crown, through the ſaid R. J. his being born and deceaſing baſtard, without lawful exiſting iſſue of his own body, or lawful diſpoſition made by him thereof at any time in his lifetime, or becauſe there is none in law can ſucceed as heir or executor to him, within the tenth degree of kin, or by whatſoever other manner of way, the ſame now falls, vaiks, and becomes in his Majeſty's hands, diſpenſing always with the generality foreſaid for ever: *With full power* to the ſaid J. S. to conclude this gift according to the former.

GIFT *of the Office of Maſter of the Mint to Sir* W. S. *of* S.

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of his Majeſty's right-truſty and intirely beloved couſin and counſellor W. D. of Q. Lord high treaſurer, his Majeſty's right-truſty and well-beloved couſin and counſellor J. E. of K. Lord treaſurer-depute, and of the reſt of the Lords of his Majeſty's exchequer of his ancient kingdom of Scotland, his Highneſs's commiſſioners, ORDAINS a letter of gift to be made and paſſed under his Majeſty's privy ſeal of his ſaid kingdom, in due and competent form, making mention, that his Majeſty taking into his royal conſideration, that the place, truſt, and office of maſter of his Majeſty's coin-houſe and mint within his ſaid kingdom, (now vacant in his Majeſty's hands, by whatſoever manner of way,) being at his Majeſty's gift and diſpoſal; and that his Majeſty judging it a matter of great importance to his ſervice, and the good of his people, that the ſame be given to a perſon of known integrity as well as loyalty, and other qualifications fitted for the diſcharge of the duty thereof; and alſo, that his Majeſty being fully convinced of, and ſatisfied with the loyalty, integrity, diligence, faithfulneſs, and other good endowments of his truſty and well-beloved Sir W. S. of S. knight and baronet, whereby he is fitly qualified for diſcharging the duty of the ſaid place, truſt and office; and his Majeſty being graciouſly deſirous to confer new marks of his royal favour upon the ſaid Sir W. S. and his family, as there ſhall be fit occaſions for doing the ſame for his and their encouragement; *Therefore,* to have made, conſtituted, appointed and ordained, likeas his Majeſty, of his certain knowledge and proper motive, and out of his princely favour and benignity, (with advice and conſent foreſaid) by theſe preſents, makes, conſtitutes, appoints and ordains the ſaid Sir W. S. during his Majeſty's royal pleaſure only, maſter of his Majeſty's coin-houſe, and mint of his ſaid ancient kingdom, giving, granting,

granting, and diſponing unto him, as ſaid is, all and haill the place, truſt and office of his Majeſty's coin-houſe and mint aforeſaid, with all fees, liberties, privileges, lodgings, conveniencies, and caſualties whatſoever, due, and anywiſe appertaining and belonging to the ſame, or that umquhil G. F. the deceaſed Sir J. F. or Sir J. F. now of B. ſome time maſters thereof, or any others of their predeceſſors therein, ever enjoyed and bruiked, and were in poſſeſſion of, or might have uplifted; with full and ample power, warrant and commiſſion to the ſaid Sir W. S. during the ſpace foreſaid, by himſelf, and his deputes in his abſence, (for whom he ſhall be holden to anſwer) to uſe and exerce the ſaid place, truſt and office of maſter of his Majeſty's coin-houſe and mint aforeſaid, and to uplift the fees, profits and caſualties thereof, in the ſame manner, and as fully and freely in all reſpects and conditions, as the ſaid umquhil G. F. the deceaſed Sir J. F. and the ſaid Sir J. F. now of B. or any of their predeceſſors aforeſaid did, or might have done at any time heretofore, or as the ſaid Sir W. S. may lawfully do by virtue of theſe preſents. And his Majeſty ordains the ſaid letter of gift to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall, the 9th day of January* 1685-6, *and of his Majeſty's reign the firſt year.*

GIFT *of being Principal Warden of the Mint to* A. M.

OUR SOVEREIGN LORD, with advice and conſent of *(here inſert the conſents according to the conſtitution for the time, and then ſay)* ORDAINS a letter of gift to be made and paſſed under his Majeſty's privy ſeal of the foreſaid kingdom, in due form, *mentioning*, that his Majeſty underſtands, that the office of principal warden of his Majeſty's mint and coin-houſe, within his Majeſty's ſaid ancient kingdom of Scotland, is now vacant, and becomes in his Majeſty's hands, and at his royal donation and diſpoſal, through and by J. F. of T. principal warden thereof, his demiſſion of the ſaid office in his Majeſty's hands, by reaſon of his old age, and thereby become infirm and unable to attend and officiate therein for the future: And his Majeſty being ſufficiently informed of the ability, fidelity, and good qualifications of his Majeſty's lovit A. M. (who, for theſe twenty years bygone, has faithfully and carefully ſerved as counter-warden of his Majeſty's ſaid coin-houſe, and which office and benefit thereof, is now conferred by his Majeſty, by a new gift, upon A. F. ſon to the ſaid J. F.) for exercing and diſcharging the foreſaid office and truſt of principal warden of his Majeſty's mint and coin-houſe in the ſaid kingdom; and being willing and deſirous to give the ſaid A. M. all due encouragement, and to confer a mark of his Majeſty's royal favour and bounty upon him; *Therefore*, Our Sovereign Lord, of his Highneſs's certain knowledge and proper motive, with advice and conſent foreſaid, hath made, conſtitute and ordained, and by theſe preſents, makes, conſtitutes, and ordains the ſaid A. M. principal warden of his Majeſty's coin-houſe of his ſaid ancient kingdom of Scotland, and gives, grants, and diſpones

to

to him the office thereof, during all the days of his lifetime, with all ordinary and extraordinary wages, fees, caſualties, and duties uſed and wont, pertaining and belonging thereto; and in ſpecial, giving and diſponing, likeas, his Majeſty, with conſent foreſaid, gives and diſpones to the ſaid A. M. the ſum of four pounds three ſhillings four pennies Scots money in ordinary monthly wages, that the ſaid J. F. had gifted and diſponed to him of before, to be paid unto him, with all the other fees, caſualties, and duties aforeſaid, out of the readieſt profits of the ſaid coin-houſe, by the maſter of the ſaid coin-houſe of the ſaid kingdom of Scotland, preſent and to come, during the ſaid ſpace: *With full power* to the ſaid A. M. to uſe and exerce the ſaid office by himſelf, or his deputes, (for whom he ſhall be anſwerable) during his lifetime, as ſaid is, and to uplift and receive the ſaid wages, fees, caſualties and duties, as well ordinary as extraordinary, particularly and generally above ſpecified, ſicklike, and as freely in all reſpects, as the ſaid J. F. or any others his predeceſſors, principal wardens of the ſaid coin-houſe, have exerced, uplifted and enjoyed the ſame at any time bygone; *commanding* the general of his Majeſty's mint to receive and admit the ſaid A. M. to the foreſaid place and office of principal warden in the uſual form, and commanding the maſter of the ſaid mint for the time being, to make payment to him of all ordinary and extraordinary wages and fees, and of all caſualties and duties belonging to the ſaid office, as ſaid is, and that during his lifetime, and which ſhall be thankfully allowed to the ſaid maſter of the mint, preſent and to come, yearly in his accompts to be given in to his Majeſty's exchequer, by the Lords auditors thereof, whom his Majeſty, with conſent foreſaid, hereby commands to defaze and allow to them yearly in their accompts; this his Majeſty's gift once being ſhown upon accompts in his Majeſty's ſaid exchequer, and regiſtered in the rolls thereof, as effeirs. *Given at the court at Whitehall, the 26th day of January* 1682, *and of his Majeſty's reign the* 33*d year.*

Conjunct GIFT *of being Eſſay-Maſter of the Mint, in favours of Mr.* H. A. *and* H. A. *his Son, and to the longeſt liver.*

OUR SOVEREIGN LORD, taking into his royal conſideration the faithful and acceptable ſervices performed to his moſt intirely beloved royal brother King CHARLES the Second (of ever bleſſed memory) by Mr. H. A. for many years, as eſſay-maſter of the mint, in his ancient kingdom of Scotland, with the great prejudice and loſſes ſuſtained by him ſince the ſhutting up of the ſaid mint, notwithſtanding of his neither having been guilty, nor accuſed of any crime or malverſation that might juſtly occaſion his being deprived of any part of his ſalary and profits of the ſaid office, which was by his late Majeſty beſtowed upon him during his life: And alſo conſidering, that, by the late act of the laſt ſeſſion of the laſt parliament of his Majeſty's ſaid kingdom, for ſettling the mint, and a free coinage, his Majeſty, with conſent of the eſtates of parliament,

parliament, did STATUTE and ORDAIN the erection, ſettling and opening of his mint therein, and the ſeveral offices and places of truſt thereunto belonging, with the reſpective ſalaries due to each of them, as the ſaid act in itſelf more fully bears: And his Majeſty further conſidering, that the skill and knowledge requiſite to an eſſay-maſter, are of ſuch a nature, as will require a long time for any perſon to be rendered perfect therein; and that the ſaid Mr. H. A. is willing and deſirous to be at the pains of inſtructing his eldeſt ſon H. A. ſo as he may be fitly qualified for ſerving his Majeſty in the ſaid office: *Therefore*, and as a mark of his favour to the ſaid Mr. H. A. ordains a letter to be made and paſſed under his Majeſty's privy ſeal of his ſaid kingdom, nominating, making, conſtituting and ordaining, likeas, his Majeſty, with the ſpecial advice and conſent of his Majeſty's right-truſty and right well-beloved couſins and counſellors J. E. of P. Lord high chancellor, and J. M. of A. Lord keeper of the privy ſeal, his right-truſty and intirely-beloved couſins and counſellors W. D. of H. and G. D. of G. and his Majeſty's right-truſty and well-beloved couſins and counſellors J. E. of T. C. E. of B. G. U. of T. Lord regiſter, and W. V. of S. lieutenant-general of all his Majeſty's forces in the ſaid kingdom, Lords commiſſioners of his Majeſty's treaſury, and of the Lords commiſſioners of exchequer, nominates, makes, conſtitutes and ordains the ſaid Mr. H. A. and H. A. his eldeſt ſon, during all the days of their lives reſpectively, conjunct eſſay-maſters of his Majeſty's mint and coin-houſe in his ſaid kingdom, giving and granting unto the ſaid Mr. H. and H. conjunctly and ſeverally, during the ſpace foreſaid, the office of eſſay-maſter of his Majeſty's ſaid mint and coin-houſe, with all fees, profits, liberties, privileges, immunities and caſualties whatſoever thereunto belonging, as fully and freely in all reſpects and conditions, as the ſame were formerly enjoyed by the ſaid Mr. H. A. or any of his predeceſſors in the ſaid office; and particularly, the ſum of one thouſand and two hundred pounds Scots, as the fee and ſalary ſettled by the ſaid act, yearly upon the eſſay-maſter of the ſaid mint, out of the firſt and readieſt of the twelve thouſand pounds Scots, of the impoſition laid upon the commodities mentioned in the ſaid act, and ſet apart for payment of the fees of the officers of the mint, maintaining of the fabric, and providing new tools, and for other incident charges relating to the mint, to be paid at four terms every year, Candlemas, Whitſunday, Lammas and Martinmas, commencing from the firſt day of November laſt paſt, conform to the ſaid act of parliament, and ſo forth, to continue yearly and quarterly thereafter, during the ſpace foreſaid; *commanding* hereby the general and maſter of the ſaid mint, preſent and to come, to make payment to the ſaid Mr. H. and H. A. of the foreſaid fee and ſalary at the terms aforeſaid, during the ſpace above mentioned: *With full power* and liberty to the ſaid Mr. H. and H. A. conjunctly and ſeverally, and their deputes in their abſence, (for whom they ſhall be anſwerable,) to uſe and exerce the ſaid office of eſſay-maſter of his Majeſty's ſaid mint and coin-houſe, and to receive, uplift and enjoy the fees, profits, privileges, emoluments and caſualties, generally and particularly above mentioned, during the ſpace foreſaid:

foreſaid: And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall the 22d day of March 1687, and of his Majeſty's reign the third year.*

GIFT *of being Counter-Warden of the Mint to* A. F.

OUR SOVEREIGN LORD, conſidering that the office of counter-warden of his Majeſty's mint and coin-houſe, within his Majeſty's ancient kingdom of Scotland, is now vacant, and fallen and become in his Majeſty's hands, and at his Highneſs's gift and diſpoſal, by and through the advancement of A. M. late counter-warden thereof to the office and truſt of principal warden of the ſaid coin-houſe; and his Majeſty being well informed of the ability and qualification of A. F. lawful ſon to J. F. of T. late principal warden of his Majeſty's coin-houſe, for exercing of the ſaid office of counter-warden of the ſaid coin-houſe, in vice and place of the ſaid A. M. *Therefore*, his Majeſty, with advice and conſent of his right truſty and well-beloved couſins and counſellors J. D. of L. Lord Preſident of his Majeſty's privy council of his Majeſty's ſaid ancient kingdom of Scotland, J. M. of A. Lord privy ſeal thereof, A. E. of M. ſole ſecretary of ſtate to his Majeſty for the ſame, W. E. of Q. P. E. of S. and of his Majeſty's truſty and well-beloved counſellor C. M. of H. his Majeſty's treaſurer-depute, commiſſioners of his Majeſty's treaſury, *&c.* in the ſaid kingdom, and alſo with advice and conſent of the remanent Lords, and others of his Majeſty's exchequer thereof, ORDAINS a letter of gift to be made and paſſed under his Majeſty's privy ſeal of the ſaid kingdom, in due form, making, conſtituting and ordaining, likeas his Majeſty, by theſe preſents, makes, conſtitutes, and ordains the ſaid A. F. counter-warden of his Majeſty's mint-houſe of the ſaid kingdom, giving and diſponing to him the ſaid office, during all the days of his lifetime, together with all ordinary and extraordinary fees, wages, caſualties and duties pertaining and belonging thereto, uſed and wont; and in ſpecial, giving and diſponing to him the ſum of three pounds ſix ſhillings eight pennies Scots money in ordinary monthly wages, to be paid to him out of the readieſt profits of the ſaid coin-houſe, by the maſter of the ſame, preſent and to come: *With power* to the ſaid A. F. to exerce the ſaid office during the ſaid ſpace, by himſelf or his deputes, (for whom he ſhall be anſwerable) and to uplift and receive the ſaid wages, fees, caſualties and duties, as well ordinary as extraordinary, particularly and generally above mentioned, ſicklike, and as freely in all reſpects, as the ſaid A. M. or any others his predeceſſors, counter-wardens, have exerced, uplifted, and enjoyed the ſame at any time bygone; *Commanding* the general of his Majeſty's mint to receive and admit the ſaid A. F. to the ſaid place and office of counter-warden in the uſual form; *and commanding* the maſter of the ſaid mint, for the time being, to make payment to him of all ordinary and extraordinary wages and fees, and of all caſualties and duties, as ſaid is, and that during his lifetime, and which

ſhall

ſhall be thankfully allowed to the ſaid maſter of the mint, preſent and to come, yearly, in his accompts to be given in to his Majeſty's exchequer, by the Lords auditors thereof, whom his Majeſty, with conſent foreſaid, hereby commands to defaze and allow to him yearly in their accompts; this his Majeſty's gift once being ſhown upon accompt in his Majeſty's ſaid exchequer, and regiſtered in the rolls thereof, as effeirs. *Given at the court at Whitehall, the 26th day of January 1682, and of his Majeſty's reign the 32d year.*

GIFT *of being Searcher, Trier, Compter, and Regiſter-keeper of all Wares and Merchandiſe imported into the Kingdom, or any Part or Parts thereof, that by Act of Parliament are liable in Payment of Bullion.*

OUR SOVEREIGN LORD underſtanding, that the office of clerkſhip of the bullion of his Majeſty's ancient kingdom of Scotland, is now vacant in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by the demiſſion thereof made by P. G. of G. writer in Edinburgh, late clerk thereto, bearing date the ſeventh day of September laſt paſt; and his Majeſty being well informed of the ability and qualifications of Mr. J. G. lawful ſon to the deceaſed P. G. of G. for exercing the ſaid office, and of his own and his predeceſſors loyalty and dutifulneſs to his Majeſty, and his royal progenitors: *Therefore*, our ſaid ſovereign Lord, with the ſpecial advice and conſent of the Lords commiſſioners of his Majeſty's treaſury and exchequer of the ſaid kingdom of Scotland, Ordains a letter of gift to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, *nominating*, making, conſtituting and ordaining, as his Majeſty hereby, with advice and conſent foreſaid, nominates, makes, conſtitutes and ordains the ſaid (6) Mr. J. G. ſearcher, trier, compter, and regiſter-keeper of all wares and merchandiſe imported into the ſaid kingdom, or any part or port thereof, that by act of parliament are liable in payment of bullion: *Commanding* all cuſtomers and collectors to give up a juſt copy and extract yearly, of all wares, merchandiſes, and goods liable in payment of bullion to the ſaid Mr. J. G. of every ſhip particularly, containing the names of the importers, together with the names of the ſkippers, and place whence the ſhip came; and, for the more exact trial thereof, to make all their ſubſcribed books of entry and others, patent to the ſaid Mr. J. G. whenſoever he ſhall require the ſame: *Commanding* alſo hereby all the judges, magiſtrates, officers, cuſtomers, collectors, ſkippers, merchants, traffickers, and others his Majeſty's lieges, *reſpective*, to anſwer, obey and concur with the ſaid Mr. J. G. in all things that concern the advantage and furthering of the ſaid ſervice: *Commanding* likeways the Lords of his Majeſty's privy council, exchequer and ſeſſion, to grant letters at the inſtance of the ſaid Mr. J. G. for anſwering and obeying him in all things concerning the premiſſes, upon a ſimple charge of ſix days, and for uſing and exercing of the ſaid office; giving alſo and granting, as his Majeſty hereby gives and grants to the ſaid Mr. J. G.

the fee and duty of five hundred merks money of the ſaid kingdom, to be paid yearly to him the ſaid Mr. J. G. at two terms every year, Whitſunday, and Martinmas in winter, by equal portions, forth of the firſt and readieſt of the rents, profits and duties of his Majeſty's coin-houſe, with all the benefits, fees, duties, caſualties, privileges and immunities whatſoever belonging to the ſaid office; *commanding* the maſter of his Majeſty's mint, preſent and to come, to make payment to the ſaid Mr. J. G. of the foreſaid fee and duty at the terms above mentioned, forth of the rents, profits and duties of the ſaid coin-houſe, to be allowed yearly to him in his accompts. *Given at the court at Whitehall the 12th day of November 1687, and of his Majeſty's reign the 3d year.*

GIFT *of being Graver and Sinker of his Majeſty's Mint.*

OUR SOVEREIGN LORD, conſidering how neceſſary it is for the good of his ſervice, to have a well qualified ſkilful graver in his mint of his ancient kingdom of Scotland, as tending much to the goodneſs and neatneſs of the impreſſion of his Majeſty's monies coined there, and being informed of the ſkilfulneſs and qualifications of T. W. for exercing that office; *Therefore*, his Majeſty, with advice and conſent of the Lords commiſſioners of his treaſury, comptrollery, and treaſury of new augmentations, and alſo with advice and conſent of the Lords and others commiſſioners of his Majeſty's exchequer of the ſaid kingdom, ORDAINS a letter to be made, and paſſed under his Majeſty's privy ſeal of the ſaid kingdom, in due form, nominating, making, and conſtituting the ſaid T. W. graver and ſinker of his Majeſty's ſaid mint in his ſaid kingdom, giving, granting, and diſponing, likeas his Majeſty, by theſe preſents, gives, grants and diſpones to the ſaid T. W. all privileges and immunities, and others whatſoever belonging to the ſaid office; *with power* unto him to exerce the ſame as fully and freely in all reſpects, as any graver of the ſaid mint hath done any time heretofore; and for exercing the ſaid office, his Majeſty hereby gives, grants, and diſpones unto him the ſum of fifty pounds Sterling money of yearly ſalary, to be paid unto him out of his Majeſty's profits of his ſaid mint, beginning the firſt term's payment thereof at Martinmas next in this preſent year 1674, and from thenceforth yearly and termly thereafter, during the whole time of his continuance in the ſaid office; hereby requiring the maſter of the ſaid mint to make thankful payment unto him of the foreſaid ſalary, as ſaid is, and which his Majeſty hereby declares ſhall thankfully be allowed unto him in his accompts yearly by the auditors thereof; hereby alſo requiring the general of his Majeſty's ſaid mint, to admit and receive the ſaid T. W. in the ſaid office, and to take his oath of faithful adminiſtration thereof; and ordains theſe preſents to be further extended in the beſt form, with all clauſes needful. *Given at his Majeſty's Honour of Hampton-Court the 10th day of July 1674, and of his reign the 26th year.*

GIFT

GIFT *of being clerk to his Majeſty's Bullion.*

OUR SOVEREIGN LORD, underſtanding that the deceaſt G. F. of R. was formerly clerk to the bullion, and did faithfully and dutifully exerce the ſame for the ſpace of fifty-two years, and that A. F. his ſon was not only bred and inſtructed by him in all things concerning the ſame, but with the ſame fidelity and care exerciſed the ſame under him till his death; and his Majeſty being willing to give all due encouragement to his faithful and well-deſerving ſervants, and eſpecially in the continuance of theſe offices that have been ſo faithfully exerced by their predeceſſors: *Therefore*, our ſaid Sovereign Lord, with the ſpecial advice and conſent of the Lords commiſſioners of his Majeſty's treaſury and exchequer, ORDAINS a letter of gift to be paſt and expede under his Majeſty's privy ſeal of Scotland, in due and competent form, to have made, conſtituted, and ordained, and by theſe preſents makes, conſtitutes and ordains the ſaid A. F. [*to conclude this as the former gift of ſearcher, figure* (6) page 25]. *Given at the court at Whitehall the* 14*th day of February* 1683, *and of his Majeſty's reign the* 34*th year.*

GIFT *of being clerk to the Coquet, and Searcher at the Ports of* Atcheſon's Haven *and* Preſtonpans, *and Precincts thereof.*

OUR SOVEREIGN LORD, with advice and conſent of his Majeſty's right truſty, and right well-beloved couſin and counſellor J. E. of P. *&c.* Lord high chancellor of the kingdom of Scotland, his Majeſty's right truſty and entirely beloved couſin and counſellor W. D. of Q. preſident of his Majeſty's privy council thereof, his Majeſty's right truſty and right well beloved couſin and counſellor J. M. of A. Lord privy ſeal, his Majeſty's right truſty and entirely beloved couſin and counſellor W. D. of H. his Majeſty's right truſty and well beloved couſin and counſellor G. V. of T. Lord regiſter, and of his Majeſty's right truſty and well beloved counſellor W. D. of C. lieutenant-general of all his Majeſty's forces in the ſaid kingdom, his Majeſty's commiſſioners for his Highneſs's treaſury, comptrollery, and treaſury of new augmentations in the ſame kingdom, and alſo with advice and conſent of the Lords and others commiſſioners of exchequer thereof; ORDAINS a letter of gift to be paſt and expede under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, *nominating* and *appointing*, likeas his Majeſty, by theſe preſents, with advice and conſent foreſaid, nominates and appoints his Majeſty's lovit J. O. of F. merchant in —— during all the days of his lifetime, and his deputes, ſervants and ſubſtitutes under him (for whom he is to be anſwerable) to be clerk of coquet, and ſearcher at the ports of Atcheſon's-haven and Preſtonpans, and haill precincts of the

ſame, as they have been exerced by the former clerks of the coquets for the ſaid ports, giving and committing to the ſaid J. O. and his foreſaids, full power and commiſſion to uſe and exerce the ſaid office of clerkſhip of coquet and ſearchery within the foreſaid bounds, by himſelf, his deputes, ſervants and ſubſtitutes under him (for whom he is to be anſwerable) in all and ſundry things whatſoever pertaining and belonging to the ſaid office: *With full power* alſo to him and his foreſaids, to ſee the ſetting and cuſtoming of all wool, hides, ſkins, tallow, cloth, herrings, fiſhes, and all other goods and merchandiſe cuſtomable within the whole bounds, liberties and freedoms above mentioned, as well pertaining unto his Majeſty's lieges as ſtrangers, unaccuſtomed goods to eſcheat and inbring to his Majeſty's uſe, arreſtments upon all ſhips, barks, boats, crears, goods and merchandiſe coming to the ports and harbours, or liberties or freedoms within the foreſaid bounds, as well pertaining to his Majeſty's lieges as ſtrangers, to make and lay on, ay and while they have made payment of their cuſtoms and other duties juſtly addebted for their ſaid goods and merchandiſe, and that as oft as occaſion ſhall require; and to take the ſails from the raes of the ſaid ſhips, barks, and other veſſels, intromit with, keep and detain the ſame in their own hands, ay and while the merchants and owners thereof have done that which becomes them in law and equity, conform to the cuſtom of the kingdom: And if the ſaids arreſtments, or any of them, be broken by the owners of the ſaid ſhips, merchandiſe, or goods, or by any other perſons, to eſcheat and uplift their whole moveable goods for the ſame, the one half thereof to be forthcoming to his Majeſty's uſe, and the other half to their own uſes, for their pains and travel to apply, and generally all and ſundry other things to do, uſe, and exerce, which to the foreſaid two offices of coquet-clerkſhip and ſearchery appertains, or that anyways righteouſly may be known to appertain and belong, ſicklike and as freely as any other clerk or ſearcher has uſed in the ſaid offices at any time bygone preceding the date hereof; for uſing and exercing the which offices, his Majeſty, with advice and conſent foreſaid, has given, granted and aſſigned, likeas his Majeſty, by theſe preſents, gives, grants and diſpones to the ſaid J. O. during all the days of his lifetime, all fees, duties and caſualties uſed and wont before, ſicklike and as freely as any other clerks of coquets or ſearchers within the ſaid bounds, or in any other precinct within the ſaid kingdom, had, has, or ſhall happen to obtain or get for uſing and exercing the ſaid office in any time bygone, preſent or to come, and that yearly, and each year during the ſpace foreſaid: *Commanding* hereby all magiſtrates of burghs, and cuſtomers within the foreſaid bounds, as well preſent as to come, and all others his Majeſty's lieges within the whole bounds, liberties and precincts foreſaid, and all ſtrangers whatſoever, that they, and each one of them, readily anſwer and obey the ſaid J. O. his deputes, ſervants and ſubſtitutes under him, in uſing and exercing the ſaid office, in all and ſundry things concerning the ſame, and make payment to them of all fees, caſualties and duties pertaining and belonging thereto, and to none others during the ſpace foreſaid, under all higheſt pain and charge that after may follow: And ordains the ſaid letter of gift to be further extended in ample form. *Given*

at

at the court at Whitehall the 22d day of April 1686, and of his Majeſty's reign the ſecond year.

GIFT *of the whole Place and Office of Clerkſhip, and Keeping of his Majeſty's Coquet-Seal, within the Town and Port of* Leith.

OUR SOVEREIGN LORD, with ſpecial advice and conſent of his Majeſty's right truſty couſin and counſellor W. M. of Q. *&c.* Lord high treaſurer of Scotland, and of his Majeſty's treaſurer-depute, and of the Lords and others commiſſioners of his Highneſs's exchequer of his ſaid ancient kingdom of Scotland, ORDAINS a letter to be made and paſt under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, giving, granting and diſponing, likeas his Majeſty, by the tenor hereof, gives, grants and diſpones to and in favours of his Highneſs's lovit R. D. the whole place and office of clerkſhip, and keeping of his Majeſty's coquet-ſeal within the town and port of Leith, with all fees, caſualties, duties and privileges whatſoever pertaining and belonging thereunto; which office is now vacant in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by the deceaſe of J. P. late clerk of the ſaid coquet: *With full power* to the ſaid R. D. to uſe and exerce the office of clerkſhip, and keeping of his Majeſty's coquet-ſeal within the foreſaid bounds, during his lifetime, in the ſame manner, as fully and freely in all reſpects and conditions as the ſaid deceaſt J. P. or any other clerk of the ſaid coquet preceding him, has, or might have uſed the ſame at any time bygone, or as any other perſon, at any time hereafter, may uſe the like office within his Majeſty's ſaid kingdom, and to make and give coquets upon whatſoever lawful goods, gear or merchandiſe, which ſhall be exported forth of the ſaid realm, in any ſhip or veſſels within the bounds above ſpecified, after the form and tenor hereof, and to do all other things requiſite and neceſſary anent the premiſſes: And his Majeſty ordains the ſaid letter to be further extended in the beſt and moſt ample form, with all clauſes needful. *Given at the court at Whitehall the 2d day of November 1682, and of his Majeſty's reign the 33d year.*

RATIFICATION *in favours of the General, Maſter, Coiner, Warden, Counter-warden, Eſſay-maſter, Sinker, Clerk, Smith, Printers, Forgers, Melters, and other Workmen of the Mint, of all their Rights, Privileges and Immunities, containing alſo a* de Novo Damus, *and many more Clauſes, and in effect is a clear, exact and perpetual Standard.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here inſert the conſents, and then ſay)* ORDAINS a letter to be made, and paſſed under his Majeſty's privy ſeal, making mention, That foraſmuch as

as his Majeſty, underſtanding the privileges, immunities, freedoms, and gifts of exemption granted to the general, maſter, coiner, warden, counter-warden, eſſay-maſter, ſinker, clerk, ſmith, printers, forgers, melters, and other haill workmen of his Majeſty's coin-houſe of his ſaid kingdom by his Majeſty's royal progenitors for ſome hundred years; and that his Majeſty being willing to continue and renew the ſame, for their further encouragement in his Majeſty's ſervice; *Therefore*, to have ratified and approved, likeas his Majeſty, by theſe preſents, (with advice and conſent aforeſaid) ratifies and approves all and whatſoever gifts of exemption, privileges, freedoms, and immunities granted to the ſaids officers, and haill members of the ſaid coin-houſe, by any of his Majeſty's royal progenitors, kings of Scotland, at any time bygone, and eſpecially without prejudice of the generality foreſaid, to have ratified and approven, and, by the tenor hereof, his Majeſty ratifies and approves the gift of exemption granted by the deceaſed David king of Scots, of worthy memory, to Adam Torrie burgeſs in Edinburgh, keeper of his Majeſty's office of coinzie of his ſaid kingdom, and to the mint-maſter, and the reſt of the workmen and ſervants depute in the ſaid office, making them free and quit of all challenges, ſupports, duties and contributions whatſoever to be ſet and put upon their lands, tenements, goods, cattle, or merchandize whatſoever; and ordaining all the ſervants of the ſaid mint to ſtand at the deciſion of the ſaid mint in all pleas and complaints which concerns them, dated the fifth day of February, in the twenty-eighth year of his reign; and alſo, another gift granted by the deceaſt King James the fifth, of bleſſed memory, under his ſignet, and ſubſcribed with his hand, giving licence to the haill officers and members of his coin-houſe, to remain and abide at home, from all hoſts, raids, wars, weapon-ſhowings, gatherings and aſſemblies to be made by his Majeſty by ſea or land, and making them, and each one of them, free of all watching, warding and ſtenting to be put on them at any time thereafter, as the ſaid letters of gift, dated the thirteenth day of October, in the thirtieth year of his reign, fully proports; and ſicklike, the gift of exemption granted by his Majeſty's deareſt grandfather King James the ſixth, giving the haill officers of the coin-houſe licence, and freeing them as ſaid is, and alſo giving power to the general of the ſaid coinhouſe to repledge the remanent officers and members of the ſaid coin-houſe, from all other judges, courts and juriſdictions, to his own courts of wardenry of the ſaid coin-houſe, which his ſaid Majeſty thereby gave power to hold and continue, as the ſaid gift, bearing date the twenty-ſecond day of April One thouſand five hundred and eighty four, more at length bears; and alſo another gift granted by the ſaid King James, of bleſſed memory, with advice of his Lords of privy council, under the privy ſeal, giving licence to the general of his Majeſty's coin-houſe, maſter, coiner, warden, ſinker, eſſayer, printers, forgers, melters, and others awaiting upon the ſervice thereof, licence and freedom as is above mentioned, as the ſaid letters of gift, dated the twenty-fifth day of June One thouſand five hundred and ſeventy-nine more at length proports; and likewiſe, to have ratified and approven, likeas, by the tenor hereof, his Majeſty ratifies and approves the letter of gift granted by his ſaid deceaſed grandfather

King

King James the ſixth, of ever bleſſed memory, making mention of the three laſt gifts above rehearſed; and therefore, of new again giving ſpecial licence and privilege to the general, maſter, coiner, warden, counter-warden, ſinker, eſſayer, printers, forgers, melters in his Majeſty's kingdom, as well preſent as to come thereafter, to remain and abide at home from all and ſundry hoſts, raids, weapon-ſhowings, wars, armies, gatherings and aſſemblies whatever to have been made by his Majeſty's lieutenants, wardens, ſheriffs, ſtewarts, crowners, provoſt and baillies of the burgh of Edinburgh, and other burghs within the kingdom of Scotland, and all others his Highneſs's officers preſent and to come, either by ſea or land, inwith or outwith the realm at any time thereafter; and ſicklike, has exeemed them, and each one of them, from all watching, warding, payment of ſtents, taxations, impoſitions, contributions, and others whatſoever, impoſed or that ſhould happen to be impoſed on his Majeſty's lieges at any time thereafter, and from all compearance and paſſing upon inqueſts, aſſizes, juſtice-courts, juſticiaries, ſheriff-courts, and baillie-courts, appriſings or perambulations of lands, or annualrents, taking of cognitions, or any other action criminal or civil whatever; exeeming, exonering and diſcharging them, and each one of them therefrom for ever: And his Majeſty willed and granted, that they, nor none of them, ſhall noways be called or accuſed, criminally or civilly, for the ſame, nor ſhall incur no ſkaith, peril nor danger therefor, in their perſons, lands, nor offices, in time thereafter, notwithſtanding of whatſoever acts of parliament, laws or conſtitutions, made or to have been made in the contrary; and which his Majeſty's ſaid deceaſed deareſt grandfather has diſpenſed with: Diſcharging therefore the juſtice-general, juſtice-clerk, and their deputes, treaſurer, advocates, provoſt and baillies of Edinburgh, and other burghs within the ſaid realm of Scotland, and all other officers and miniſters of his Majeſty's laws, preſent and thereafter to come, of all ſummoning, indicting, attaching, arreſting or accuſing, calling, following, purſuing, or unlawing, in anyways troubling or moleſting the ſaid perſons, or any of them, or other members of the ſaid coin-houſe; and of all ſtenting, taxing or unlawing them, or any of them, for the ſame, in any time thereafter, diſcharging them thereof, and of their offices in that part for ever. And alſo, his Majeſty's deareſt grandfather hath given and granted full power to the ſaid general, to repledge the haill officers, and remanent perſons therein named of the ſaid coin-houſe awaiting thereon, from all juſtice-courts and juriſdictions, to his own courts of wardency of the ſaid coin-houſe, to whom his ſaid Majeſty thereby gave full power to hold and continue, and to create clerks and officers, alter and change the ſame, as need beis, and to find caution of Culrach, for doing of juſtice to all parties complaining upon, and law againſt any of the officers and members of the ſaid coin-houſe, conform to the laws and conſuetude in ſuch caſes, and like as any other general thereof has had, or might have uſed in any time then bygone, inhibiting and diſcharging all other judges to exerce and uſe any judgment or juriſdiction upon them, or any of them, as they would anſwer on their obedience and uttermoſt charge and peril; which letter of gift is of date the fifteenth day of November, One

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thouſand ſix hundred and four years: And in like manner, the ratification granted by his Majeſty's ſaid deareſt grandfather and eſtates of parliament, ratifying and approving all and whatſoever letters of gifts of exemption, liberties, privileges and immunities made and granted by himſelf and his moſt noble progenitors, to and in favours of the general, and other officers and ſervants of his Majeſty's coin-houſe of Scotland, and ſpecially the laſt letter of exemption granted by himſelf, making relation of the other three letters of exemption above rehearſed, dated the twenty-third day of October One thouſand ſix hundred and twelve, in all and ſundry heads, articles, points, and circumſtances of the ſame. And our ſaid Sovereign Lord, (with advice and conſent foreſaid,) hereby ratifies, confirms and approves the letter of exemption granted by his deareſt royal brother King Charles the ſecond, (of ever bleſſed memory) to the then general, maſter, and remanent officers of the ſaid mint or coin-houſe, dated at the court at Whitehall the twenty-third day of September One thouſand ſix hundred and ſixty-eight, in the twentieth year of his reign, *in theſe words*, And further, of new, to have granted and diſponed, likeas, by the tenor hereof, his Majeſty grants and diſpones to the general, maſter, coiner, warden, counter-warden, ſinker, eſſayer, printers, forgers, melters, and remanent workmen and members of the ſaid coin-houſe for the time being, and their ſucceſſors, to be free and quit of all challenges, ſupports, duties and contributions whatſoever to be put on them, their lands, tenements, goods, cattle, or merchandiſe whatſoever, according to the tenor of the above written gift of exemption granted by David King of Scots: And further, to have given and granted, likeas, by the tenor hereof, his Majeſty grants and diſpones ſpecial licence, privilege and liberty to the ſaid general, and other officers of his ſaid coin-houſe, particularly above expreſſed, as well preſent as to come, to remain at home from all and ſundry hoſts, raids, wars, weapon-ſhowings, armies, gatherings and aſſemblies whatſoever, to be made by his Majeſty's lieutenants, wardens, ſheriffs, ſtewarts, crowners, provoſt and baillies of the burgh of Edinburgh, and other burghs within his ſaid kingdom of Scotland, and by all others his officers preſent and to come, either by ſea or land, inwith or outwith his ſaid kingdom in any time coming; and ſicklike to have exeemed, likeas, by the tenor hereof, his Majeſty exeems them, and each one of them, from all watching, warding, payment of ſtents, taxations, contributions, and other impoſitions whatſoever, impoſed by way of valuation or retour, or any other manner of way, upon them, their lands and heritages, goods or gear, and whether already impoſed, or that ſhall happen hereafter to be impoſed upon his Majeſty's ſubjects of his ſaid kingdom of Scotland, in time coming, for whatſoever cauſe or occaſion; and further, to have exeemed them, and each one of them, from compearing and paſſing upon inqueſts, aſſizes, juſtice-courts, juſtice-airs, ſheriff-courts, and baillie-courts, appriſings, and perambulations of lands and annualrents, taking of cognitions, or any other actions, criminal and civil whatſoever, exeeming and exonering them, and each one of them, therefrom forever; and to have willed and granted, likeas, by the tenor hereof, his Majeſty wills and grants, that they, nor none of them, ſhall

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nowiſe be called, nor accuſed criminally or civilly for the ſame, nor ſhall incur no ſkaith, peril nor damage therefor, in their perſons, goods, nor offices, in any time thereafter, notwithſtanding of whatſoever acts of parliament, laws, or other conſtitutions made, or to have been made in the contrary; anent the which, his Majeſty, by theſe preſents, diſpenſes for ever, diſcharging therefor the juſtice-general, juſtice-clerk, and their deputes, treaſurer, and commiſſioners of the treaſury, advocates, provoſt and baillies of the burgh of Edinburgh, and other burghs within the ſaid kingdom, and all other officers and miniſters of the laws, preſent and to come, of all ſummoning, indicting, attaching, arreſting, accuſing, calling, following or purſuing, unlawing, or in anywiſe troubling or moleſting the ſaid general of his coin-houſe, maſter-coiner, and remanent officers, workmen, and other ſervants of the ſaid coin-houſe, and of all ſtenting, taxing, or unlawing them, or any of them for the ſame, in any time thereafter, diſcharging them therefor, and of their offices in that part for ever: As alſo, to have given and granted, likeas, by the tenor hereof, his Majeſty gives and grants full power to the ſaid general to repledge the haill officers, workmen, and members of the ſaid coin-houſe above expreſſed, from all other juſtice-courts, and juriſdictions, to his own court of wardenry of his Majeſty's ſaid coin-houſe, which his Majeſty, by theſe preſents, gives full power to the ſaid general to hold and continue, and to create clerks and officers, alter and change the ſame as need beis, and to find caution of Culrach for doing of juſtice to all parties, juſtly complaining upon law againſt any of the officers and members of the ſaid coin-houſe, conform to the laws and conſuetude in ſuch caſes, and like as any other general thereof has had, or might have uſed in any time bygone; inhibiting and diſcharging hereby all his Majeſty's judges, to exerce or uſe any judgment or juriſdiction on them, or any of them, as they will anſwer to his Majeſty on their obedience and utmoſt charge and peril. And our ſaid Sovereign Lord further conſidering, that it is of great importance for his ſervice, and the good and well of the ſaid ancient kingdom of Scotland, that the general, and other officers and ſervants belonging to his ſaid mint and coin-houſe, be in all time coming free and exempted, as is at length above mentioned; *Therefore*, out of his ſpecial favour, certain knowledge, and proper motive, to have ratified, approved and confirmed, likeas, his Majeſty, by theſe preſents, (with advice and conſent foreſaid,) ratifies, approves and confirms all the above named privileges and exemptions, with and under the particular reſtrictions, reſervations, and alterations above mentioned; and by this his Royal Highneſs's grant and letter of exemption, to have of new given, granted and diſponed, likeas, his Majeſty, by the tenor hereof, of new gives, grants, and diſpones unto R. L. M. general, S. U. S. of —— maſter-coiner, A. M. principal warden, —— M. counter-warden, M. H. A. eſſay-maſter, J. C. ſinker, —— clerk of the bullion, D. P. clerk and book-keeper, —— M. maſter-ſmith, and all the printers, melters, forgers, and remanent workmen and ſervants of his Majeſty's ſaid mint and coin-houſe for the time being, and their deputes and ſucceſſors in their offices reſpectively, to be free and quit of all challenges, ſupports, duties and contributions whatſoever to

be put on their lands, tenements, goods or cattle, (always excepting merchandiſe to be imported by them, or any of them, according to the tenor of the above written gifts of exemption, granted by the kings of Scotland, his Majeſty's royal progenitors:) And further, to have given and granted, likeas, by theſe preſents, his Majeſty gives and grants ſpecial licence, privileges and liberties to the ſaid general, and other officers, members, workmen and ſervants of his ſaid mint and coin-houſe particularly above expreſſed, as well preſent as to come, to remain at home from all hoſts, raids, wars, weapon-ſhowings, armies, gatherings and aſſemblies, that ſhall be hereafter, by command and warrant of his Majeſty, or the Lords of his privy council, his Majeſty's lieutenants, wardens, ſtewarts, crowners, provoſt and baillies of the burgh of Edinburgh, and other burghs within the ſaid kingdom of Scotland, and by all other his Majeſty's officers preſent and to come, either by ſea or land, inwith or outwith the ſaid kingdom in any time coming: And ſicklike, to have exeemed, likeas, his Majeſty hereby exeems them, and each one of them, their lands, tenements and poſſeſſions, from all watching, warding, payment of ſtents, taxations, contributions, and other impoſitions whatſoever, impoſed by way of valuation or retour, or any other manner of way, upon them, their lands, heritages, goods and gear, whether already impoſed, or that ſhall happen hereafter to be impoſed on his Majeſty's ſubjects of his ſaid kingdom of Scotland in time coming, for whatſoever cauſe or occaſion: And farther, to have exeemed, likeas, his Majeſty hereby exeems them, and each one of them, from compearing and paſſing upon inqueſts, aſſizes, juſtice-courts, juſticiaries, ſheriff-courts and baillie-courts, appriſings, and perambulations of lands, and annualrents, taking of cognitions, and any other actions criminal and civil whatſoever, exeeming and exeems them, and each one of them therefrom for ever; and to have willed and granted, likeas, by theſe preſents, his Majeſty wills and grants, that they, nor none of them, ſhall anywiſe be called or purſued criminally nor civilly for the ſame, nor ſhall incur any ſkaith, peril or danger therefor in their perſons, goods or offices in any time hereafter, notwithſtanding of whatſoever acts of parliament, laws, or other conſtitutions, made or to be made in the contrary, anent the which his Majeſty hereby diſpenſes for ever; diſcharging therefor his Majeſty's juſtice-general, juſtice-clerk, and the commiſſioners of juſticiary, Lords commiſſioners of his Majeſty's treaſury, and treaſurer for the time being, his Majeſty's advocate, provoſt and baillies of the burgh of Edinburgh, and other burghs within his ſaid kingdom, and all officers and miniſters of his Majeſty's laws, preſent and to come, of all ſummoning, indicting, attaching, arreſting, accuſing, calling, following, or purſuing, unlawing, or anywiſe troubling or moleſting the ſaid general of his Majeſty's mint and coin-houſe, maſter-coiner, and remanent officers and other members thereof, and of all ſtenting, taxing, or unlawing them, or any of them, for the ſame in any time hereafter, diſcharging them therefor, and of their offices in that part for ever: As alſo, to have given and granted, likeas, his Majeſty hereby gives and grants full power to the ſaid general, and his ſucceſſors in office, to repledge the haill officers, workmen, and members of the ſaid mint and

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coin-houſe above expreſſed, from all other juſtice-courts, to his own court of wardenry of his Majeſty's ſaid coin-houſe, which his Majeſty, by theſe preſents, gives full power to the ſaid general and his foreſaids to hold and continue, and to appoint, make and conſtitute any officers or ſervants thereunto belonging, and to alter and change the ſame at his pleaſure; excepting always, likeas, his Majeſty, by theſe preſents, expreſly does except all the above named officers of his Majeſty's mint, who have their commiſſions under his royal hand, and particularly the clerk or book-keeper of the ſaid mint, who has his commiſſion from his Majeſty, and whom his Majeſty reſerves for himſelf and his royal ſucceſſors to name in all time coming; it being always expreſly provided, that the ſaid general and his foreſaids ſhall find caution of Culrach for doing of juſtice to all parties complaining upon law againſt any of the officers and members of the ſaid mint and coin-houſe, conform to the laws and conſuetude in ſuch caſes, and like as any general thereof has, or might have uſed in any time bygone; inhibiting and diſcharging hereby all other judges to exerce and uſe any judgment or juriſdiction on them, or any of them, as they will anſwer to his Majeſty on their obedience and utmoſt charge and peril: And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful, promiſing *in verbo principis*, to cauſe theſe preſents to be ratified in the firſt ſeſſion of his Majeſty's next enſuing parliament of his ſaid kingdom, requiring hereby the eſtates of parliament to ratify the ſame accordingly, for which this ſhall be to them a ſufficient warrant. *Given at the court at Whitehall the 12th day of February* 1687, *and of his Majeſty's reign the third year.*

PRESENTATION *of the Sub-Deanry of the Chapel royal of* Striveling, *in favours of Mr.* J. H. *Parſon of* Reſtalrig, *and Miniſter of* Leith.

OUR SOVEREIGN LORD *ORDAINS* a letter of preſentation to be made and paſſed under his Majeſty's privy ſeal of his Highneſs's ancient kingdom of Scotland, in due and competent form, directed to the right reverend father in God J. B. of D. dean of his Majeſty's chapel-royal of Striveling, *making mention*, that foraſmuch as his Majeſty being credibly informed of the literature, qualification, piety, loyalty, peaceable diſpoſition, and good life and converſation of Mr. J. H. parſon of Reſtalrig, and miniſter at Leith, and how he has, not only for many years, with great zeal and affection, laboured in the office and function of the miniſtry within the kirk of God, but alſo of his ardent deſires to continue in the ſaid function and propagation of the goſpel; *Therefore*, nominating and preſenting, likeas, his Majeſty, by theſe preſents, nominates and preſents the ſaid Mr. J. H. to the ſub-deanry and ſacriſtary of the ſaid chapel-royal of Striveling, and prebendary thereof, founded upon the parſonage and vicarage of the kirks of Kirkinwer and Kirkovan, and others belonging thereto, together with all and ſundry lands, ſuperiorities, feu-duties, annualrents, grownd-

annuals, houſes, biggings, yards, orchards, parks, meadows, graſings, woods, fiſhings, dignities, juriſdictions, teinds great and ſmall, as well parſonage as vicarage, feu-mails, fruits, rents, provents, emoluments, caſualties, profits and duties whatſoever, parts, pendicles, and univerſal pertinents of the ſame, pertaining, or that is or ſhall be found known, or made appear anywiſe to appertain and belong thereto, either from the foundation thereof, or ſince annexed thereto, and incorporate therewith by his Majeſty, or any of his Highneſs's moſt royal progenitors, or any other perſon or perſons, and which were poſſeſſed and enjoyed by the deceaſt Mr. A. T. late miniſter of Edinburgh, and ſub-dean and ſacriſt of the ſaid chapel-royal, and prebendary thereof, or by any of his predeceſſors in the ſaid dignity, or that might have been poſſeſſed and enjoyed by them, by virtue of the ſaids foundations and rights, at any time heretofore, *now* vacant in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by the deceaſe of the ſaid Mr. A. T. laſt incumbent in the ſaid dignity, or by whatſoever other manner of way the ſame has vaiked, or may vaik in his Highneſs's hands; requiring thereby the ſaid right reverend father in God J. B. of D. now dean of the ſaid chapel-royal, to try and examine the literature, qualification, good life and converſation of the ſaid Mr. J. H. and being found able and qualified to uſe and exerce the ſaid office of ſub-deanry and ſacriſtary of the ſaid chapel-royal of Striveling, to admit and receive him thereto, and to the parſonage and vicarage thereof, and prebendary of the ſame foreſaid, founded as ſaid is, with all and ſundry lands, ſuperiorities, feu-duties, annualrents, ground-annuals, houſes, biggings, yards, orchards, parks, meadows, graſings, woods, fiſhings, dignities, juriſdictions, teinds great and ſmall, as well parſonage as vicarage, feu-mails, fruits, rents, provents, emoluments, caſualties, profits and duties whatſoever, parts, pendicles, and univerſal pertinents of the ſame, pertaining, or that is or ſhall be found known, or made appear anywiſe to appertain and belong thereto, either from the foundation thereof, or ſince annexed thereto, and incorporate therewith, as ſaid is, and which were poſſeſſed and enjoyed by the ſaid laſt incumbent, or any of his predeceſſors in the ſaid dignity, or that might have been poſſeſſed and enjoyed by them, or either of them, by virtue of the ſaids foundation and rights at any time heretofore, and that of the crop and year of God One thouſand ſix hundred and eighty-one years, and haill terms thereof, and yearly and termly thereafter in all time coming, during the ſaid Mr. J. H. his lifetime and ſervice in the ſaid dignity, and to take his oath for acknowledging his Majeſty's authority, and giving due obedience to the ſaid right reverend father his ordinary, and thereupon to authoriſe the ſaid Mr. J. H. with his teſtimonial of admiſſion and collation, and cauſe all other ſolemnities in the like caſes uſed and accuſtomed to be done and performed in ſuch due and competent form, as accords: *Commanding* alſo thereby the Lords of his Majeſty's council and ſeſſion, to grant and direct letters of horning upon a ſimple charge of ten days, and others neceſſary, in form as effeirs, at the inſtance of the ſaid Mr. J. H. againſt all and ſundry the heritors, liferenters, wadſetters, feuars, tenants, tackſmen, poſſeſſors, occupiers, and others, intromitters with, addebted, and in uſe of

payment

payment of the ſaid teind-ſheaves, and other teinds great and ſmall, parſonage and vicarage, feu-duties, feu-mails, annualrents, ground-annuals, fruits, rents, provents, emoluments, caſualties, profits and duties whatſoever of the ſaid ſubdeanry and ſacriſtary of the ſaid chapel-royal of Striveling, and prebendary thereof, pertaining, or that is or ſhall be known to appertain and belong thereto, and either contained in the foundation, or were annexed thereto, and poſſeſſed and enjoyed, or might have been poſſeſſed and enjoyed by the ſaid Mr. A. T. or any of his predeceſſors in the ſaid dignity, at any time heretofore; charging them to readily anſwer, obey, and make payment to the ſaid Mr. J. H. of the ſame, of the ſaid crop and year of God One thouſand ſix hundred and eighty-one, and haill terms thereof, and yearly and termly in time coming, during all the days of his lifetime and ſervice in the ſaid dignity; and that the ſaid letter of preſentation and gift be extended in moſt ample form, with all clauſes needful. *Given at the court at Windſor-Caſtle the 31ſt day of May* 1681, *and of his Majeſty's reign the 33d year.*

Nota, That the deanry is annexed to the biſhopric of Dumblane.

GIFT *of being Bedel and Keeper of his Majeſty's Chapel Royal, in favours of* J. K.

OUR SOVEREIGN LORD, underſtanding that the office of bedel and keeper of his Majeſty's chapel royal in the kingdom of Scotland, is now vacant in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by and through the deceaſe of Thomas M'Clellan late bedel and keeper thereof: And his Majeſty being informed of the fidelity, loyalty, and affection of J. K. and of his ability and fitneſs to exerce the ſaid office; *Therefore*, his Majeſty, of his royal prerogative and kingly power, ORDAINS a letter of gift to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, making, nominating, conſtituting, appointing, and ordaining, and by the tenor hereof, makes, nominates, conſtitutes, appoints and ordains the ſaid J. K. during all the days of his lifetime, ſole bedel and keeper of his Majeſty's chapel royal of the ſaid kingdom of Scotland, and hereby gives, grants, and diſpones to him, during his lifetime, the office thereof, with the ſole liberty and privilege of keeping his Majeſty's chapel royal, and the ſum of twenty pounds Sterling money of yearly ſalary belonging thereto, to be paid to him during his lifetime, yearly and termly, at two terms in the year, Martinmas and Whitſunday, by equal portions, forth of the firſt, readieſt, and beſt of the rents, duties and caſualties belonging to his Majeſty's chapel royal, or as the ſaid deceaſed Thomas M'Clellan was in uſe and wont in uplifting thereof, beginning the firſt term's payment thereof at the term of Martinmas, in the year One thouſand ſix hundred and eighty-one, and the next term's payment at Whitſunday One thouſand ſix hundred and eighty-two years, and ſo forth yearly at the ſaids terms during his lifetime, together with all

other

other fees, penſions, caſualties, privileges, immunities, profits, duties, and emoluments whatſoever, pertaining, or that any ways may be known to pertain and belong to the ſaid office, to be peaceably bruiked and enjoyed by him during all the days of his lifetime, and by his deputes in his name, whom he ſhall appoint from time to time, and alter at his pleaſure, and for whom he ſhall be anſwerable, ſicklike and as freely in all reſpects as the ſaid T. M. or any other his Majeſty's bedels, keepers of his Majeſty's ſaid chapel royal, have bruiked and enjoyed, or might have bruiked and enjoyed at any time heretofore, freely and quietly, but any revocation, impediment, or again calling whatſoever; ſecluding hereby from the ſame office and haill privileges thereof, all others whom the preſent or ſucceeding deans of his Majeſty's chapel royal has placed, or ſhall place or conjoin with him therein: *With full power* to the ſaid J. K. during all the days of his lifetime, by himſelf or his deputes whom he ſhall appoint under him from time to time, as he thinks fit, to bruik and enjoy the ſaid office, and to aſk, crave, intromit with, and uplift the foreſaid fee and ſalary of —— and all other the fees and caſualties belonging to the ſaid office, of the ſaid term of Martinmas One thouſand ſix hundred and eighty-one years, and in time coming during his lifetime, and thereupon to diſpone at his pleaſure, and if need beis, to call, charge, and purſue therefor as accords of the law, compone, tranſact and agree thereanent, and to give diſcharges thereupon, and to do all other things that thereto appertains; *Commanding* hereby the Lords of his Majeſty's privy council, ſeſſion, and exchequer of the ſaid kingdom, or one or other of them, to grant and direct letters of horning on a ſimple charge of fifteen days, and all other letters and executorials needful, at his inſtance, againſt all and ſundry the heritors, liferenters, conjunct fiars, feuars, farmers, tenants, tackſmen, occupiers and poſſeſſors of the lands and others belonging to his Majeſty's ſaid chapel royal, and all others intromitters with, and addebted and liable in payment of the ſaid ſalary and caſualties belonging to the ſaid office, for cauſing the ſaid J. K. his factors and ſervants in his name, to be readily anſwered, obeyed and paid of the ſame, of the term of Martinmas One thouſand ſix hundred and eighty-one, and in all time coming during his lifetime, forth of the firſt and readieſt of the rents of the ſaid chapel royal, or as the ſaid deceaſed T. M. was in uſe to uplift the ſame: And if it be found that there are any reſts due preceding Whitſunday One thouſand ſix hundred and eighty-one, his Majeſty hereby freely aſſigns and diſpones the ſame to the ſaid J. K. with power to him to uplift, receive, and diſcharge the ſame. *And foraſmuchas* by ſeveral acts of parliament and council, and particularly by the 275th act of the 15th parliament of his Majeſty's grandfather King James VIth, of ever bleſſed memory, thoſe who are employed in his Majeſty's ſervice are exeemed from bearing any burden, or watching or warding within burgh with the reſt of the neighbours; *Therefore*, his Majeſty wills and declares, that the ſaid J. K. ſhall enjoy the benefit of the ſaid act of parliament, and other acts of parliament and council whatſoever, conceived in favours of thoſe who are employed in his Majeſty's ſervice; and that the ſaid letter of gift be farther extended, with all

clauſes

clauſes needful. *Given at the court at Whitehall the 25th day of February* 1682, *and of his Majeſty's reign the* 34*th year.*

GIFT *in Favours of Mr.* J. R. *Miniſter of* Edinburgh, *of being his Majeſty's Eleemoſynar within the Kingdom of* Scotland.

OUR SOVEREIGN LORD *ORDAINS* a letter to be made and paſſed under the privy ſeal of his ancient kingdom of Scotland, making mention, that his Majeſty underſtanding, that the place and office of eleemoſynar to his Majeſty in his ſaid kingdom, is now vacant in his Majeſty's hands, and at his gift and diſpoſition, by and through the late deceaſe of Mr. A. T. one of the miniſters of the city of Edinburgh; and that his Majeſty being well informed of the qualifications and fitneſs of Mr. J. R. (one of the preſent miniſters of the ſaid city) for exercing the ſaid office, as alſo of his loyalty and affection to his Majeſty's ſervice; *Therefore*, to have nominated, conſtituted and appointed, likeas his Majeſty, by theſe preſents, with the advice and conſent of the right honourable the Lords commiſſioners of his Majeſty's treaſury, and of the remanent Lords and others of his exchequer of the ſaid kingdom, nominates, conſtitutes and appoints the ſaid Mr. J. R. during all the days of his natural life, his Majeſty's eleemoſynar in his ſaid kingdom, giving, granting, and diſponing unto him (during the ſpace foreſaid) the ſaid place and office of eleemoſynar, with all his fees, duties and profits, immunities, privileges and caſualties whatſoever thereunto belonging, to be poſſeſſed, bruiked and enjoyed by him, as fully and freely in all reſpects and conditions, as the ſaid deceaſed Mr. A. T. or any of his predeceſſors in the ſaid office did enjoy, or might have enjoyed the ſame at any time heretofore: And for the enabling and encouragement of the ſaid Mr. J. R. in the faithful diſcharge of his duty in the ſaid office, his Majeſty (with advice and conſent foreſaid) gives and grants unto him the ſum of two thouſand merks Scots money, to be delivered unto him in a whole and intire payment, at or before the firſt day of May yearly, during the ſpace foreſaid; whereof the ſum of five hundred merks money foreſaid, is to be employed and diſtributed amongſt the common poor, according to the uſe and wont upon every twenty-ninth day of May, (being the day of his Majeſty's nativity) and the remaining thouſand pounds money foreſaid, is to be for the uſe and behoof of the ſaid Mr. J. R. for his attendance, pains and ſervice in the ſaid office, beginning the firſt year's payment of the ſaid two thouſand merks money foreſaid, at or before the firſt day of May next enſuing the date of theſe preſents, and that for the year One thouſand ſix hundred and eighty-one, and ſo forth to continue yearly during the ſpace foreſaid: And it is hereby declared, that of the thouſand pounds Scots above mentioned, there is only five hundred merks of fee belonging to the ſaid office as formerly, and the remaining thouſand merks money foreſaid, is by his Majeſty beſtowed as a penſion and perſonal favour upon the ſaid Mr. J. R. during his lifetime only, and not to be annexed to the ſaid office;

and

and his Majeſty ordains the ſaid letter to be extended in the beſt form, with all clauſes needful. *Given at the court at Oxford the 24th day of March* 1681, *and of his Majeſty's reign the* 33*d year.*

PRESENTATION *to the Church of* St. Ninians, *in Favours of Mr.* J. F.

OUR SOVEREIGN LORD conſidering, that the kirk of St. Ninians, within the dioceſe of Edinburgh, is now vacant in his Majeſty's hands, and become at his Highneſs's gift and preſentation, by and through the deceaſe of Mr. W. F. late miniſter thereat; and his Majeſty being ſufficiently informed of the literature, qualification, and good converſation of Mr. J. F. miniſter at Dipnet in Caithneſs; *Therefore*, his Majeſty ORDAINS a letter of preſentation to be paſſed and expede under his Majeſty's privy ſeal of the kingdom of Scotland, in due and competent form, nominating, preſenting, and appointing, likeas his Majeſty hereby nominates, preſents, and appoints the ſaid Mr. J. F. to be miniſter at the ſaid kirk of St. Ninians, during all the days of his lifetime, giving, granting, allowing, and diſponing to him, during the ſpace foreſaid, the conſtant local and modified ſtipend, together with the manſe, glebe, and others whatſoever pertaining to the ſaid kirk, and that for the enſuing crop and year of God One thouſand ſix hundred and eighty-five, and in all time coming during his lifetime and ſervice of the cure at the ſaid kirk; requiring hereby the right reverend father in God J. by the mercy of God biſhop of Edinburgh, within whoſe dioceſe the ſaid pariſh church lies, to take trial of the literature and good life and converſation of the ſaid Mr. J. F. and having found him apt and qualified for the function of the miniſtry at the ſaid church of St. Ninians, to adminiſter to him the teſt, appointed by the ſixth act of his Majeſty's current parliament, to be taken by all perſons in public truſt, and other oaths needful, and to admit and receive him thereto, give to him his letters of collation hereupon, and teſtimonial of admiſſion, in due and competent form: *With command* alſo to the Lords of his Majeſty's council and ſeſſion, upon ſight of the ſaids letters of preſentation, and the ſaid reverend father in God his letters of collation, with the inſtitution to follow thereupon, to grant and direct letters of horning on a ſimple charge of ten days only, and other executorials neceſſary at the inſtance of the ſaid Mr. J. F. againſt all and ſundry the heritors, liferenters, feuars, farmers, tenants, tackſmen, occupiers and poſſeſſors of lands, and others within the pariſh of St. Ninians, liable and ſubject in payment of the foreſaid local and modified ſtipend, and others whatſoever belonging thereto, for cauſing the ſaid Mr. J. F. his ſervants, factors, and others in his name, be readily anſwered, obeyed and paid thereof, and that for the enſuing crop and year of God One thouſand ſix hundred and eight-five years foreſaid, and yearly and termly in time coming, during all the days of his lifetime, and ſervice of the ſaid cure at the ſaid kirk, in ſuch due and competent form

form as effeirs. *Given at the court at Whitehall the* 31*ſt day of October* 1684, *and of his Majeſty's reign the* 36*th year.*

Nota, Being an actual miniſter formerly, in place of taking trial of his literature, it ſhould have been only of his life and converſation.

PRESENTATION *to the Church of* Dalgety *in favours of Mr.* J. L. *Student in Divinity.*

OUR SOVEREIGN LORD, underſtanding that the pariſh church and parochin of Dalgety, within the preſbytery of Dunfermline and dioceſe of Dunkeld, is now vacant in his Majeſty's hands, and at his ſaid Highneſs's gift and preſentation, through the deceaſe of Mr. J. C. laſt miniſter at the ſaid church, and his Majeſty being informed of the literature, qualification, life, and good converſation of Mr. J. L. ſtudent in divinity, and of his deſire to exerce the office of a miniſter at the ſaid kirk; *Therefore*, his Majeſty ORDAINS a letter to be paſſed and expede under his Highneſs's privy ſeal of the kingdom of Scotland, nominating and preſenting the ſaid Mr. J. L. to be miniſter at the ſaid kirk of Dalgety, during all the days of his lifetime, and to the parſonage and vicarage tithes, conſtant, local and modified ſtipend thereof, manſe, glebe, and pertinents of the ſame, and that of the half of this inſtant crop and year of God One thouſand ſix hundred and eighty years, and in all time coming during his lifetime, and ſerving the cure of the miniſtry at the ſaid kirk, with all and ſundry fruits, rents, emoluments, caſualties, privileges, immunities, profits, duties and pertinents belonging thereto, or that anyways may be known to pertain to the ſame, to be peaceably bruiked, enjoyed and poſſeſſed by him, during all the days of his lifetime, and ſerving the cure of the miniſtry at the ſaid kirk, ſicklike and as freely in all reſpects as the ſaid Mr. J. C. or any others his predeceſſors, miniſters thereof, bruiked and enjoyed, or anyways poſſeſſed the ſame of before, freely, quietly, but any impediment or again-calling whatſoever; *commanding* the right reverend father in God A. by the mercy of God, biſhop of Dunkeld, within whoſe dioceſe the foreſaid church and parochin lies, to try and examine the literature, qualifications, life and good converſation of the ſaid Mr. J. L. and his ability to exerce the foreſaid charge and function of a miniſter at the ſaid church of Dalgety; and being found able and qualified, to admit and receive him thereto, and to the parſonage and vicarage tithes thereof, manſe, glebe and pertinents of the ſame, and that of the half of the ſaid crop and year of God One thouſand ſix hundred and eighty years, and in all time coming during his ſaid lifetime, and ſerving the ſaid cure of the miniſtry at the ſaid church, and thereupon to give him collation, inſtitution, and letters teſtimonial of admiſſion thereto, in ſuch due and competent form as effeirs, and to receive his oath for acknowledging his Majeſty's royal prerogative, ſubjection to his Highneſs,

and due canonical obedience to his ordinary; and ſicklike, commanding the Lords of council and ſeſſion, upon ſight of this preſentation, and of the collation and inſtitution to follow hereupon, to grant and direct letters of horning on a ſimple charge of ten days only, and all other executorials needful, at the inſtance of the ſaid Mr. J. L. againſt all and ſundry the heritors, feuars, farmers, tenants and tackſmen within the ſaid parochin of Dalgety, for cauſing him, his factors and ſervants in his name, be thankfully obeyed and paid of the ſaids parſonage and vicarage tithes, conſtant, local and modified ſtipend, of the half of the ſaid crop and year of God One thouſand ſix hundred and eighty years foreſaid, and of the whole in all time coming during his ſaid lifetime and ſerving the cure at the ſaid church. *Given at the court at Windſor-Caſtle the 5th day of July* 1680 *years, and of his Majeſty's reign the 32d year.*

Nota, This preſentation as drawn, *viz.* to take trial of his literature and qualifications is right, becauſe he being only a ſtudent in divinity, a trial ſhould precede his admiſſion to the holy function of the miniſtry; whereas an actual miniſter paſſed his trial formerly, and ſo no further trial but as to his good life and converſation, and ſo (in this one point) differs from the former preſentation.

GIFT *of being ſecond Maſter in the College of the Univerſity of* St. Andrews, *and Profeſſor of Divinity there, in favours of Dr.* A. M.

OUR SOVEREIGN LORD, underſtanding that the ſecond maſter's place in the new college of the univerſity of St. Andrews, is now vacant in his Majeſty's hands, and at his Highneſs's gift and preſentation, as undoubted patron thereof, through the deceaſe of Dr. D. F. laſt ſecond maſter of the ſaid new college; and his Majeſty being ſufficiently informed of the gravity, piety, literature, qualification, life, and good converſation of Dr. A. M. miniſter at the Wemyſs, and his ability to exerce the function of a ſecond maſter in the ſaid college, and for the profeſſion of divinity there; ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal of his ancient kingdom of Scotland, nominating and preſenting the ſaid Dr. A. M. to the ſecond maſter's place of the ſaid new college, and to be profeſſor of divinity there, and to the ſtipends, fees, profits, emoluments and caſualties, with the privileges, liberties and immunities known and accuſtomed formerly to belong to the ſaid profeſſor's place, to be peaceably enjoyed and poſſeſſed by him, ſicklike and as freely in all reſpects as the ſaid Dr. D. F. or any others his predeceſſors, maſters of the new college, have poſſeſſed and enjoyed the ſame, and that for the half of this inſtant crop and year of God One thouſand ſix hundred and eighty-two years inſtant, and in all time coming during his lifetime, and exercing the ſaid ſecond maſter's place in the ſaid college; *commanding* the moſt reverend father in God A. by divine providence, archbiſhop of St. Andrews, chancellor of the ſaid univerſity, to take the ſaid Dr. A. M. his oath for acknowledging his Majeſty's royal prerogative,

gative, ſubjection to his Highneſs, and due canonical obedience to his ordinary: And ſicklike, that ye cauſe him ſwear and ſign the teſt appointed by the late act of parliament, and to admit and receive him to the ſaid ſecond maſter's place of the new college, and to the profeſſion of divinity there, and to the haill privileges, fees, ſtipends, emoluments, caſualties, and others above mentioned, and that for the half of the ſaid crop and year of God One thouſand ſix hundred and eighty-two years inſtant, and ſicklike in all time thereafter during his lifetime and exercing the ſaid ſecond maſter's place in the ſaid college; *commanding* alſo the Lords of council and ſeſſion, on ſight of the preſentation, with the admiſſion to follow thereupon, to grant and direct letters of horning, on a ſimple charge of ten days only, at the inſtance of the ſaid Dr. A. M. againſt all and ſundry liable and in uſe of payment of the ſaid ſtipends, fees, duties, emoluments and caſualties belonging and pertaining to the ſaid ſecond maſter of the new college, for cauſing him, his factors, ſervants and others in his name, be readily anſwered, obeyed, and paid thereof, and that for the half of the ſaid year of God One thouſand ſix hundred and eighty-two inſtant, and ſicklike in all time coming during his ſaid lifetime, and exercing the ſaid ſecond maſter's place in the new college, conform to the ſaid preſentation and admiſſion to follow thereupon in all points. *Given at the court at Newmarket the* 15*th day of March* 1682, *and of his Majeſty's reign the* 34*th year.*

Nota, There be many churches and profeſſions whereof the king is patron, and that before preſentations thereto were expede the privy ſeal, the perſon preſented found caution conform to the act of parliament in the regiſter of benefices (a diſtinct office appointed for that effect) not to dilapidate the benefice, and in effect the preſentations are *de verbo in verbum* recorded therein.

COMMISSION *by his Majeſty to* J. S. *Procurator-Fiſcal of the Commiſſariot of* Edinburgh, *to collect the* quotas *of all Teſtaments within that Dioceſe.*

OUR SOVEREIGN LORD conſidering, that ſince the vacancy of the biſhopric of Edinburgh, there is no perſon yet authoriſed to compone for, and uplift the *quotas* of teſtaments, which upon the confirmation thereof were in uſe and due to be paid to the biſhops of that ſee; and his Majeſty being informed, that J. S. procurator-fiſcal of the commiſſariot of Edinburgh, is a perſon ſufficiently qualified for that purpoſe; *Therefore*, Our ſaid Sovereign Lord, with advice and conſent of the Lords commiſſioners of his Majeſty's treaſury and exchequer, ORDAINS a letter of commiſſion to be paſſed and expede under his Majeſty's privy ſeal of his ancient kingdom of Scotland, giving, granting, and committing, and by theſe preſents, his Majeſty, with advice and conſent foreſaid, gives, grants and commits to the ſaid J. S. full power and warrant to compone all *quotas* of teſtaments that are or may be due ſince the vacancy of the biſhopric of Edinburgh, and in time coming during the continuance of this commiſſion;

and to give ſuch reaſonable abatements to perſons of merit, or to thoſe who are indigent, as have been uſual in former times; and to uplift and diſcharge the ſaids *quotas*, and to uſe all diligence for the effectual inbringing thereof, that any perſon intruſted for that effect by the biſhops of Edinburgh were in uſe to do, or might legally have done: *Providing* always, that the ſaid J. S. be holden and obliged, as by acceptation hereof he binds and obliges him, his heirs, ſucceſſors, and executors, to make compt, reckoning and payment to his Majeſty, or to any perſon whom his Majeſty ſhall appoint to receive the ſame, of his haill intromiſſions with the *quotas* of the foreſaids teſtaments, by virtue of this commiſſion, yearly, termly, or oftener if he ſhall be required, deducing always his neceſſary expences, with the ſum of two hundred and forty pounds Scots money yearly for his pains; and that the foreſaid commiſſion be farther extended in the beſt form, with all clauſes needful. *Given at Whitehall the 12th day of November* 1687, *and of his Majeſty's reign the —— year.*

WARRANT *for a new Tack of the Mails and Duties of the Lordſhip of* Stirling *to the Earl of* Mar, *with a Diſcharge of the bygone Tack-Duties.*

OUR SOVEREIGN LORD, with advice and conſent of his right truſty and right well-beloved couſin and counſellor W. M. of Q. Lord high treaſurer of Scotland, and of his Majeſty's right truſty and well beloved counſellor J. D. of L. his Majeſty's treaſurer-depute, as alſo with advice and conſent of the remanent Lords and others of his exchequer; ORDAINS a letter to be made and paſſed under his Majeſty's privy ſeal of his ſaid kingdom, making mention, That in conſideration of a contract and appointment made, perfected and ended at Holyroodhouſe the fourth day of November One thouſand ſix hundred and forty-one years, betwixt his Majeſty's royal father, of bleſſed memory, on the one part, and J. E. of M. *&c.* on the other part, whereby, for the ſum of eight thouſand pounds Sterling money, due by his ſaid late Majeſty to the ſaid deceaſed E. for his reſignation of his heritable office of the ſheriffſhip of Stirling, and other offices heritably belonging unto him, and for the arrears of a penſion conferred upon the ſaid E. his ſaid late Majeſty, in ſatisfaction of the ſaid ſum, did ſet, and in tack and aſſedation, let to the ſaid deceaſed E. his heirs and aſſignees, *all* and *haill* the feu-mails, feu-farms, kains, cuſtoms, and other duties of the lands and lordſhip of Stirling, for all the days, ſpace and years of twenty-five years, next after the date of the ſaid contract, and in conſideration of a ſignature ſuperſcribed by his Majeſty at Stirling the eleventh day of June One thouſand ſix hundred and fifty-one, whereby his Majeſty did ratify and approve the foreſaid contract, and tack therein contained, for the whole years thereof then to run; and that, notwithſtanding thereof, during the years of the late uſurped authority in Scotland, neither the late deceaſed E. nor the laſt deceaſed J. E. of M. his ſon, did receive any benefit of the ſaid tack; our ſaid Sovereign Lord having been

been graciouſly pleaſed, by his new letter of gift, bearing date at Whitehall the twenty-ſixth day of October One thouſand ſix hundred and ſixty, to ratify, approve and confirm the foreſaid contract and tack therein contained, for the whole years then to run, and of new again to ſet, and in tack and aſſedation to let the ſame unto the laſt deceaſed J. E. of M. for all the days, ſpace, years and terms of ten years, next and immediately following his entry thereto, which was, and did begin next and immediately after the expiring of the ſaid twenty-five years; and that his Majeſty having alſo been graciouſly pleaſed, by another new letter of gift, bearing date at Whitehall the fifteenth day of December One thouſand ſix hundred and ſeventy-five years, of new again to ſet, and in tack and aſſedation to let the ſame to the ſaid C. E. of M. for all the days, ſpace, years and terms of three years next and immediately after the expiring of the ſaid laſt tack of ten years, and thereafter, ay and until the ſame be recalled and diſcharged by his Majeſty, and that although by their poſſeſſion, by virtue of the former tacks, the debt of eight thouſand pounds Sterling above mentioned be fully ſatisfied and completely paid; yet that his Majeſty, calling to mind the great ſervices done and performed to his Majeſty and his royal progenitors by Ch. now E. of M. and his noble predeceſſors, and being willing to beſtow a new mark of his royal favour and bounty upon the ſaid E. both for the well and ſtanding of his family, and for his further encouragement in his Majeſty's ſervice; *Therefore*, to have of new again ſet in tack and aſſedation, likeas his Majeſty, by theſe preſents, of new again ſets, and in tack and aſſedation lets unto the ſaid C. E. of M. the ſaid feu-mails, feu-farms, kains, and other duties of the ſaid lands and lordſhip of Stirling, and that for all the days, ſpace, years and terms of five years, next and immediately after this preſent year of God One thouſand ſix hundred and eighty-three, and thereafter, ay and until the ſame be recalled and diſcharged by his Majeſty; with power to the ſaid E. to intromit with, and uptake the ſaid feu-mails, feu-farms, kains, cuſtoms, and the other duties of the ſaid lands and lordſhip of Stirling, during the ſaid ſpace of five years, and thereafter, as ſaid is, from the feuars, farmers, tenants, tackſmen, and others addebted in payment thereof, and to give diſcharges thereupon, in whole or in part, which his Majeſty declares to be valid to the receivers, paying for the ſame the ſaid C. E. of M. to his Majeſty and royal ſucceſſors, the tack-duty of ten merks Scots money upon the —— day of July yearly: Likeas his Majeſty, for the cauſes aforeſaid, exoners and diſcharges the ſaid C. E. of M. of all by-run tack-duties of the ſaids lands and lordſhip of Stirling, reſting and due by the foreſaid tacks, willing, and hereby ordaining the Lords of ſeſſion or exchequer, to grant and direct letters of horning upon a ſimple charge of ten days, at the inſtance of the ſaid E. againſt all and ſundry the feuars, farmers, tenants, tackſmen, chamberlains, and others addebted in payment of the ſaid feu-mails, feu-farms, and other duties aforeſaid of the ſaid lands and lordſhip of Stirling, for payment making thereof unto him: *Commanding* alſo the ſaids Lords of exchequer, to allow the payment to be made unto the ſaid E. yearly, as ſaid is, to the feuars and others aforeſaid, in their accompts, ordaining the ſaid letter to be further extended in the beſt form,

form, with all clauſes needful: For doing thereof, theſe preſents ſhall be to all perſons who may be reſpectively therein concerned, a ſufficient warrant. *Given at the court at Whitehall the 27th day of November* 1683, *and of his Majeſty's reign the 35th year.*

TACK *of the Aſſize Herrings of the Weſt Seas of* Scotland, *in favours of* J. S. *Sheriff of* Bute, *fallen in his Majeſty's Hands*, ratione forisfacturæ, *with the Privilege of holding Courts of Juſticiary, and ſeveral other Liberties.*

OUR SOVEREIGN LORD, conſidering that the aſſize herrings of the weſt ſeas of Scotland have fallen, and are at his Majeſty's diſpoſal, by a doom of forfeiture pronounced againſt A. late E. of A.. on the — day of —— laſt bypaſt, and his Majeſty being deſirous to beſtow the ſame upon J. S. ſheriff of Bute; *Therefore*, his Majeſty, with the advice and conſent of *(here inſert the conſent according to the conſtitution for the time, and then ſay)* ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal, in due form, ſetting, and in tack and aſſedation letting, likeas hereby his Majeſty, with advice and conſent foreſaid, ſets, and in tack and aſſedation for the yearly duty under written, lets to the ſaid J. S. ſheriff of Bute, his heirs and aſſignees, all and haill the aſſize herrings of the weſt ſeas of Scotland, haill profits and commodities thereof whatſoever, within all the bounds of the iſles, great and ſmall, lochs and creeks, from Periland-frith to the Mule of Galloway, or any part thereof, and where the ſea flows within the river of Clyde, and that for the days, years, ſpace and terms of three years, next and immediately following the ſaid J. S. his entry thereto, which is hereby declared to be, and have begun upon the firſt day of July One thouſand ſix hundred and eighty-two years, and from thence to continue and endure for the ſpace foreſaid, and the ſaid aſſize herrings, haill profits and commodities thereof, to be intromitted with and uplifted by the ſaid J. S. and his foreſaids, during the haill ſpace and time of the ſaid tack: *With power* to the ſaid J. S. and his foreſaids, to meddle, intromit with, and uptake the ſaid aſſize herrings, and thereupon to uſe and diſpone at his pleaſure, freely, quietly, and in peace, but any revocation; *and alſo*, with ſpecial power and privilege to the ſaid J. S. and his foreſaids, by themſelves, and their deputes and ſubſtitutes in their name, to be appointed by them (for whom they ſhall be holden to anſwer) to affix, affirm and continue, and hold courts of juſticiary within any part neareſt to the ſaids bounds and ſeas, for adminiſtration of juſtice, and the puniſhment of tranſgreſſors of whatſoever acts or ſtatutes, made or to be ſet down for obſerving of good order amongſt the fiſhers, merchants and wonners of the ſaids herrings, as the cuſtom has been in times paſt, and to intromit with, and uptake the unlaws, amerciaments, and eſcheats of the ſaids courts, and the ſame to apply to their own uſe, and to poind and diſtrenzie therefor, as accords of the law, and to make and create officers and members of court needful, for whom they ſhall be

be anſwerable; and generally, with power to the ſaid J. S. and his foreſaids, to call to an account any collectors, ſub-tackſmen, or others who have had, or ſhall have, any intromiſſion with any part of the ſaids caſualties, or any profits ariſing therefrom ſince the ſaid firſt day of July, by virtue of any right whatſoever from his Majeſty, the Lord treaſurer, or any other perſon whatſoever, and to do all and ſundry other things that to the office of bailliary is known to appertain, paying therefor yearly the ſaid J. S. and his foreſaids, to his Majeſty and his Highneſs's ſucceſſors, or to the treaſurer or receivers of his Majeſty's rents in his Highneſs's name, the ſum of two thouſand pounds Scots yearly, at the term of Whitſunday, in name of tack-duty, beginning the firſt year's payment at Whitſunday One thouſand ſix hundred and eighty-three years, and ſo forth yearly thereafter, during the ſpace foreſaid of the ſaid tack; and the ſaid tack to be further extended, with all clauſes needful; and with command therein to the Lords of exchequer or ſeſſion, to grant and direct letters of horning and poinding, and others neceſſary, and the horning to be upon a ſimple charge of twenty-four hours allenarly, at the inſtance of the ſaid J. S. and his foreſaids, and their deputes, for cauſing of them to be thankfully anſwered, obeyed, and paid of the foreſaid aſſize herrings, and alſo all duties and caſualties belonging thereto, during the ſpace above ſpecified of the ſaid tack. *Given at the court at Windſor-Caſtle the 22d day of July* 1682, *and of his Majeſty's reign the* 34*th year.*

Nota, Theſe words, *that to the office of bailliary*, ſhould have been, that to the office of juſticiary is known to appertain.

GIFT *of the Tack of the Teinds of the Pariſh of* Colmonel, *&c. to the Rector and Principal of the Univerſity of* Glaſgow, *and their Succeſſors in Office, for the Utility of the ſaid Univerſity, fallen in his Majeſty's Hands*, ratione foriſfacturæ.

OUR SOVEREIGN LORD, with advice and conſent of *(here inſert the conſents according to the time, and then ſay)* ORDAINS a letter of gift to be paſt and expede under his Majeſty's privy ſeal of his ſaid kingdom, in due form, giving, granting, aſſigning and diſponing, likeas, his Majeſty, for his royal ſelf, and his Majeſty's ſucceſſors, by the tenor hereof, gives, grants, aſſigns and diſpones, to and in favours of his Majeſty's lovits, the rector and principal of the univerſity of Glaſgow, and their ſucceſſors in office, for the utility and behoof of the ſaid univerſity, a tack of the teinds parſonage and vicarage of the parochin of Colmonel, ſet by them to T. K. of —— for the years and ſpace, and for payment of the yearly tack-duty, and others therein mentioned, of the date the —— or of whatſoever other date, tenor and contents the ſamen be of, now fallen and become in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by reaſon of forfeiture, laws and practique of this realm,

and

and privilege of his Majeſty's crown, through being of the ſaid T. K. in an juſtice-court holden at Edinburgh the —— day of ——— laſt bypaſt, by the Lords juſtice-general, juſtice-clerk, and Lords commiſſioners of his Majeſty's juſticiary, duly and legally forfeited for the crimes of treaſon and leſe Majeſty, and all his lands, heritages, tacks, ſteadings, rooms, poſſeſſions, goods and gear, moveable and immoveable, adjudged and declared to pertain and belong to his Majeſty, his heirs and ſucceſſors, in manner mentioned in the ſentence and doom of forfeiture, given and pronounced thereanent, as the ſamen, of the date foreſaid, more fully proports; together with all right, title and benefit whatſoever, which his Majeſty had, has, or anywiſe may have claim, or pretend to the foreſaid tack and teinds parſonage and vicarage above mentioned, thereby ſet, of all years and terms bygone, that the ſame has been, and fallen in his Majeſty's hands, by reaſon foreſaid, and yearly and termly in time coming, during the years and ſpace of the ſaid tack yet to run: *With full power* to the ſaid rector and principal of the ſaid univerſity of Glaſgow, and their ſucceſſors in office, for the utility and behoof of the ſaid univerſity, to poſſeſs, teind, lead, collect, intromit with, and uplift the foreſaids teinds parſonage and vicarage of the ſaid parochin of Colmonel, and thereupon to uſe and diſpone at their pleaſure, and to ſerve and execute inhibitions thereupon yearly, and, if need beis, to call, follow, charge and purſue therefor, as accords of the law, and to ſet tacks and aſſedations of the ſame, and generally all and ſundry other things neceſſary and requiſite anent the premiſſes to do, uſe and exerce, ſicklike, and as freely in all reſpects, as the ſaid T. K. of —— might have done before the committing of the ſaid crime of treaſon, and before the pronouncing of the ſaid doom and ſentence of forfeiture againſt him; and that the ſaid letter of gift be further extended, with all clauſes needful. *Given at Edinburgh the 11th day of May 1685 years.*

Nota, This gift ſhould have been under the King's own hand, but it ſeems it was granted by a letter from his Majeſty; for the exchequer of themſelves uſe not to diſpoſe of forfeitures, without they have that power by virtue of their commiſſion, no more than they have to grant a *de novo damus*, or to tax lands.

COMMISSION *of the Chamberlainry of* Fife, *in favours of Mr.* G. B. *Advocate; and whereby the former Commiſſions are recalled.*

OUR SOVEREIGN LORD being ſufficiently informed and aſſured of the qualifications, fidelity and ability of his Majeſty's lovit Mr. G. B. advocate, for collecting, uplifting and receiving of his Majeſty's rents, profits and duties, due and payable to his Majeſty forth of the lordſhip and ſtewartry of Fife; and conſidering how neceſſary and expedient it is for his Majeſty's ſervice and intereſt, to have a fit and able chamberlain employed for that effect; *Therefore,*

fore, our ſaid Sovereign Lord ORDAINS a letter of gift and commiſſion to be paſſed and expede under his Highneſs's privy ſeal of the kingdom of Scotland, in due form, making, nominating, conſtituting and ordaining, likeas, his Majeſty, by theſe preſents, makes, nominates, conſtitutes and ordains the ſaid Mr. G. B. during all the days of his lifetime, his Majeſty's ſole and only chamberlain of the ſaid ſtewartry and lordſhip of Fife, and of all lordſhips, baronies, lands and others pertaining and belonging thereunto; and giving, granting and diſponing, likeas, his Majeſty, by theſe preſents, gives, grants and diſpones to the ſaid Mr. G. B. during his ſaid lifetime, the foreſaid office of chamberlainry of Fife, with all fees, caſualties, profits, emoluments, privileges and duties pertaining and belonging thereunto, or whereof the former chamberlains thereof have been in uſe and poſſeſſion at any time bygone, or which may anywiſe accreſce and belong to the ſaid office in time coming: *With full power* to the ſaid Mr. G. B. during his ſaid lifetime, and to his deputes and factors under him (for whom he ſhall be anſwerable) to intromit with, uplift, ask, crave and receive the haill rents, mails, farms, caſualties, profits and duties, due and payable to his Majeſty, forth of the ſaid lordſhip and ſtewartry of Fife, haill lands, lordſhips, baronies and others thereunto pertaining and belonging, and that of all years and terms bygone, reſting, owing, unpaid, and yearly and termly in time coming; and, upon receipt of the ſame, in haill or in part, to grant diſcharges, which ſhall be ſufficient to the receivers, and to call, follow, charge and purſue therefor, and generally all and ſundry other things thereanent to do, ſicklike, and as feely in all reſpects as any other chamberlain in the ſaid office, or any other chamberlain in the kingdom of Scotland has done or may do in any time bygone or to come: *Commanding* hereby the Lords commiſſioners of his Majeſty's treaſury, treaſurer-principal, and treaſurer-depute for the time, to enter, admit and receive the ſaid Mr. G. B. to the foreſaid office of chamberlainry, and to adminiſter to him ſuch oaths as are appointed by the laws of the kingdom in the like caſes; and likewiſe commanding the Lords of his council and ſeſſion, or exchequer, to grant and direct letters of horning, poinding, and others requiſite, at the inſtance of the ſaid Mr. G. B. or his deputes and factors under him, againſt all and ſundry his Majeſty's vaſſals, feuars, farmers, liferenters, tackſmen, tenants, poſſeſſors and occupiers of the lands, lordſhips, baronies, and others above written, and all others liable in payment to his Majeſty of the foreſaids mails, farms, kains, cuſtoms, caſualties, profits and duties due and payable forth thereof, for payment making to the ſaid Mr. G. B. of the ſame, of all years and terms bygone, reſting unpaid, and yearly and termly in time coming during his lifetime: *Providing* always, likeas, it is hereby expreſly provided and declared, that the ſaid Mr. G. B. ſhall be holden and obliged to make juſt compt, reckoning and payment to his Majeſty and his Highneſs's ſucceſſors, and their treaſurer, principal and deputes, or commiſſioners of his Majeſty's treaſury and exchequer for the time, of the foreſaids rents and duties to be intromitted with and uplifted by him, by virtue of this preſent commiſſion, as uſe is, they always allowing and deducing to the ſaid Mr. G. B. the ordinary fees and duties uſual to be allowed and deduced to thoſe

in the ſaid office of chamberlainry, at any time heretofore, which his Majeſty requires and ordains his ſaid treaſurers, principal and depute, or commiſſioners of the treaſury for the time, to pay and allow to the ſaid Mr. G. B. during his ſaid lifetime; and his Majeſty has recalled, annulled and diſcharged, and hereby recals, annuls and diſcharges all former commiſſions granted to any other perſons of the ſaid office of chamberlainry at any time heretofore, and ſpecially the commiſſion and gift of the ſaid office of chamberlainry, granted by his Majeſty in favours of J. M. of —— and J. M. his ſon, which, (in regard they have not taken the oath and teſt appointed by the late act of parliament,) his Majeſty doth hereby declare to be void and null in all time coming; and ordains the ſaid gift and commiſſion to be further extended under his Majeſty's privy ſeal, with all clauſes needful. *Given at*

WARRANT *for a Gift of the Place of one of his Majeſty's Phyſicians in ordinary in* Scotland, *in favours of Dr.* A. B.

OUR SOVEREIGN LORD being well informed both of the loyalty, and of the ability, integrity, and other good qualifications of his truſty and well-beloved Dr. A. B. to exerce the place and office of one of his Majeſty's phyſicians in ordinary, within his Majeſty's ancient kingdom of Scotland; and being graciouſly deſirous to confer a mark of his royal favour upon him, ORDAINS a letter to be made and paſſed under the privy ſeal of his ſaid kingdom, nominating, conſtituting and ordaining, likeas, his Majeſty hereby nominates, conſtitutes and ordains the ſaid Dr. A. B. during all the days of his life, to be one of his Majeſty's phyſicians in ordinary within his ſaid kingdom, giving, granting and diſponing unto him the ſaid place and office, to be poſſeſſed and enjoyed by him during the ſpace foreſaid, as fully and freely in all reſpects and conditions, as any of his Majeſty's phyſicians in ordinary within his ſaid kingdom hath formerly enjoyed, at preſent doth, or hereafter may enjoy the like place and office, with all profits, benefits, privileges, liberties, immunities and caſualties thereunto belonging: And his Majeſty ordains the ſaid letter to be further extended, in the beſt form, with all clauſes needful. *Given at*

GIFT *to be his Majeſty's Principal Apothecary and Druggiſt, in Favours of Mr.* Alex. Hay, *Apothecary, Burgeſs of* Edinburgh; *and likeways Apothecary to the Forces.*

OUR SOVEREIGN LORD, underſtanding the qualification, literature and ability of his Majeſty's lovit Mr. A. H. apothecary, burgeſs of Edinburgh, for uſing and exercing the office of principal apothecary and drug

giſt,

giſt to his Majeſty, his royal family and forces, within his Majeſty's ancient kingdom of Scotland; *Therefore*, his Majeſty, with advice and conſent of the Lords and others commiſſioners of his Majeſty's treaſury and exchequer of the ſaid kingdom of Scotland, ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, making, conſtituting, and ordaining, likeas his Majeſty, by the tenor hereof, makes, conſtitutes, and ordains the ſaid Mr. A. H. during all the days of his lifetime, principal apothecary and druggiſt to his Majeſty, his royal family, and forces within his Majeſty's ancient kingdom of Scotland; and giving and diſponing, likeas his Majeſty, by theſe preſents, gives and diſpones to him, during his ſaid lifetime, the office thereof, with all privileges, freedoms, immunities, commodities and caſualties belonging, or that any manner of way may belong thereunto: *With full power* to the ſaid Mr. A. H. during his ſaid lifetime, to uſe and exerce the ſaid office of principal apothecary and druggiſt to his Majeſty, his royal family and forces, as is above written; and to uplift and enjoy all fees, benefits, profits, freedoms, immunities, commodities, and caſualties whatſoever, belonging, or that any manner of way may belong thereunto, ſicklike and as freely in all reſpects as any other in that office uſed and enjoyed, or may uſe and enjoy the ſame. *And foraſmuchas* by ſeveral acts of parliament, particularly by the 275th act of the 15th parliament of his Majeſty's grandfather King James VIth of bleſſed memory, thoſe who are employed in his Majeſty's ſervice (as one of each occupation) are exempted from bearing any burden, or watching and warding within burgh with the reſt of the neighbours; his Majeſty wills and grants, and hereby ordains, that the ſaid Mr. A. H. ſhall enjoy the benefit of the ſaid act of parliament, and of all other acts of parliament or council whatſoever conceived in favours of thoſe who are employed in his Majeſty's ſervice; and that the ſaid letter be further extended in the beſt form, with all clauſes needful. *Given at*

WARRANT *for a Gift of the Offices of one of the ordinary Macers before the Secret Council, Exchequer and Commiſſions, in Favours of* J. J. *Servitor to the* E. *of* M. *one of the Secretaries of State: It alſo bears to be Serjeant at Arms.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be made and paſſed under his Majeſty's privy ſeal of his ancient kingdom of Scotland, in due form, making mention, That foraſmuchas his Majeſty being informed, that J. S. one of the ordinary macers before the Lords of ſecret council and exchequer, is lately departed this life; and taking into his royal conſideration the loyalty, and other good qualifications of J. J. (ſervant to his Majeſty's right truſty and right well-beloved couſin and counſellor A. E. of M. one of his Majeſty's ſecretaries of ſtate for the ſaid kingdom) whereby he is well fitted for the true and faithful diſcharge of the places and offices of one of the ſaid ordinary macers now

vacant and at his Majesty's gift and disposal; *Therefore*, to have nominated, made, constituted and appointed, likeas his Majesty, by these presents, (with advice and consent of his Majesty's right trusty and right well-beloved cousin and counsellor W. M. of Q. Lord high treasurer, his Majesty's right trusty and well-beloved cousin and counsellor J. D. of L. Lord treasurer-depute, and of the remanent Lords and others of the exchequer,) nominates, makes, constitutes and appoints the said J. J. to be one of the ordinary macers before the Lords of secret council, exchequer, and commissions, and a serjeant at arms, during all the days of his life; giving, granting, and disponing to the said J. J. the saids offices, with all fees, duties, profits, casualties, and privileges whatsoever thereunto belonging: *With full power* to the said J. J. to use and exerce the said offices, and to uplift and receive the fees, duties, profits, and casualties thereof, (during the space foresaid) as amply and freely in all respects and conditions, as the said deceased J. S. or any others his predecessors, macers (as aforesaid) used and exerced, or might have used and exerced the said offices in any time bygone: *With command* in the said letter to the Lords of his Majesty's secret council, exchequer and commissions, to receive the said J. J. in the said offices, as is above written, and to take his oath for due and lawful administration thereof, and to authorise him with their testimonial of admission thereunto, in due and competent form as effeirs, conform to the tenor of the said letter, in all points; and his Majesty ordains the said letter to be further extended in the best and most ample form, with all clauses needful. *Given at*

WARRANT *for a Gift of the Office of one of the four ordinary Macers before the Lords of Council and Session, in favours of* W. S. *Writer in* Edinburgh.

OUR SOVEREIGN LORD, understanding that by the decease of J. G. there is a place of one of the ordinary macers before the Lords of council and session now vacant in his Majesty's hands, and at his gift and disposal; and his Majesty, being well informed of the loyalty and fidelity of W. S. writer in Edinburgh, and his ability and fitness to exerce the said place and office; *Therefore*, ORDAINS a letter to be made, and passed under his Majesty's privy seal of his ancient kingdom of Scotland, nominating, constituting and ordaining, likeas his Majesty, by these presents, nominates, constitutes and ordains the said W. S. to be one of the four ordinary macers before the saids Lords of council and session, during all the days of his life; giving, granting and disponing the foresaid place and office to him, with all the pensions, fees, privileges, casualties, profits and duties pertaining, or which are or may be known to pertain and belong to the same; *with full power* to the said W. S. during the space foresaid, to bruik, joy and exerce the said office and place, and to intromit with, uplift and receive the whole fees, pensions, casualties, profits and duties above

specified

ſpecified thereto belonging, from and after the — day of —— and —— years, as fully and freely in all reſpects and conditions, as the ſaid J. G. or any other of his predeceſſors in the ſaid office did bruik and enjoy, or might have bruiked or enjoyed the ſame at any time heretofore (and particularly without prejudice of the ſaid generality) the fees and duties due to the macers before the Lords of council and ſeſſion, by virtue of a ratification and new grant from his Majeſty's moſt dear, and moſt entirely beloved brother King Charles the ſecond (of ever bleſſed memory) under the privy ſeal of the ſaid kingdom, bearing date at Whitehall the ſeventh day of May One thouſand ſix hundred and ſeventy-ſix years; and generally, with power to him to do and perform all other things, any manner of way, that to the duty of the ſaid place and office is known to appertain: *Commanding* hereby the Lords of council and ſeſſion, to admit and receive the ſaid W. S. unto the ſaid office, in the ordinary form and manner in the like caſes accuſtomed, and to take his oath for due and lawful adminiſtration thereof, and to authoriſe him with their teſtimonial thereupon, in due form as effeirs; as alſo, to cauſe him ſwear and ſign the teſt, and take the declaration, and other oaths appointed by law: And likewiſe, *commanding* his Majeſty's treaſurer-principal, treaſurer-depute, or commiſſioners of his Majeſty's treaſury for the time being, to make payment to the ſaid W. S. as one of the ſaid four macers, in manner above mentioned, in the gift and ratification above ſpecified, whoſe receipt for the ſame (together with theſe preſents) ſhall be to them, and to the Lords auditors, for allowing the ſame in their accompts, a ſufficient warrant. And his Majeſty ordains the ſaid letter to be further extended in the beſt and moſt ample form, with all clauſes needful. *Given at*

WARRANT *for a Gift to be Meſſenger to his Majeſty's Privy Council and Exchequer, as to all Letters and Diligence relating to his Majeſty's Revenues and Caſualties.*

OUR SOVEREIGN LORD, underſtanding that his Majeſty's privy council and exchequer within his ancient kingdom of Scotland, have had meſſengers properly belonging thereto, for executing all his Majeſty's letters, for inbringing of his Majeſty's rents, cuſtoms, exciſe, and all other caſualties belonging to his Majeſty's crown, and all other public letters and ſummonſes; and that the ſaid place is preſently vacant, and at his Majeſty's gift and diſpoſition, through the deceaſe of J. Y. purſuivant, who laſt exerced the ſaid office, by virtue of a demiſſion from W. C. his Majeſty's laſt meſſenger in exchequer; and his Majeſty being fully and ſufficiently informed of the fitneſs and faithfulneſs of J. P. meſſenger in Edinburgh to exerce and diſcharge the ſaid office; *Therefore*, his Majeſty, with advice and conſent of (*here inſert the conſents according to the conſtitution for the time, and then ſay*) ORDAINS a letter of gift to be paſſed and expede under his Majeſty's privy ſeal of his ſaid kingdom, in due form as effeirs,

effeirs, nominating, making, conſtituting and appointing, likeas his Majeſty, with advice and conſent foreſaid, nominates, makes, conſtitutes and appoints the ſaid J. P. during all the days of his lifetime, to be meſſenger to his Majeſty's privy council and exchequer within the ſaid kingdom, preferring and allowing him to be employed for executing all letters and others, raiſed or to be raiſed at his Majeſty's inſtance, for all the rents, feu-duties, cuſtoms, exciſe, and all others whatſoever belonging to his Majeſty's crown within the ſaid kingdom: And his Majeſty, with advice and conſent foreſaid, gives, grants and diſpones to the ſaid J. P. during all the days of his lifetime, the ſaid office, with all the fees, profits, privileges, immunities and caſualties, belonging, or which are known to pertain and belong to the ſame; *with full power* to him to exerce the ſaid place and office, and to execute all letters, precepts and commiſſions, and others whatſoever belonging thereto, and to do and uſe all other things requiſite and neceſſary thereanent, ſicklike, and as freely in all reſpects, as any other meſſenger in the ſaid office has done at any time bygone. And for the ſaid J. P. his better encouragement to diſcharge the ſaid office, his Majeſty, with advice and conſent foreſaid, gives and grants to the ſaid J. P. the ſum of eighty pounds Scots money in name of ſalary, to be paid to him out of his Majeſty's exchequer, yearly and termly, at two terms in the year, Whitſunday and Martinmas, by equal portions, during all the days of his lifetime; and ordains the Lords of his Majeſty's treaſury, to make good and thankful payment to him of the ſame accordingly: And that the ſaid letter of gift be further extended, with all clauſes needful. *Given at*

WARRANT *for a Gift of the Office of Preſenter of Signatures in Exchequer, in favours of* John Veatch *of* Daik.

OUR SOVEREIGN LORD, underſtanding that the office of preſenting ſignatures to his Majeſty's exchequer, and ordering of his Majeſty's diſpatches within his Majeſty's ancient kingdom of Scotland, is now vacant in his Majeſty's hands, and at his royal gift and diſpoſition, by and through the demiſſion of W. B. late preſenter of ſignatures, conform to a letter of demiſſion and reſignation thereof, made and ſubſcribed by him in manner therein ſpecified, of the date the — day of — laſt paſt; and his Majeſty being ſufficiently informed and aſſured, as well of the fidelity and loyalty of J. V. of —— as of his abilities and qualifications fitted for exercing the foreſaid office and truſt; *Therefore*, Our ſaid Sovereign Lord ORDAINS a letter of gift to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, in due form, giving, granting and diſponing, likeas his Majeſty, by theſe preſents, gives, grants and diſpones to and in favours of the ſaid J. V. the foreſaid office and place of preſenting ſignatures in his Majeſty's exchequer, and the ordaining his Majeſty's diſpatches within the ſaid kingdom, with all fees, dues, privileges, caſualties and immunities

immunities whatsoever belonging to the same, to be bruiked and enjoyed and exerced by the said J. V. during his Majesty's pleasure only, as fully and freely in all respects as the said W. B. the deceased M. P. B. his father, or any others in the said place and trust have done at any time heretofore; with command in the said gift to his Majesty's treasurer-principal, and treasurer-depute, or the Lords commissioners of his Majesty's treasury for the time being, to make due and thankful payment to the said J. V. of his fees, and to receive and admit him to the exercise of the said place and office, during his Majesty's pleasure as aforesaid: And his Majesty ordains the said letter of gift to be further extended in the best form, with all clauses needful. *Given at*

This gift was afterwards renewed, and his son conjoined.

GIFT *of the Office of being his Majesty's Horse Leitch, or Farrier within the Kingdom of* Scotland, *in favours of* Barth Gibson, *Farrier in the Abbey of* Holy-rood-house.

OUR SOVEREIGN LORD, with the special advice and consent of *(here insert the consents according to the time, and then say)* ORDAINS a letter to be made and passed under his Majesty's privy seal of the kingdom of Scotland in due form, making, nominating and appointing, likeas, his Majesty, by the tenor hereof, makes, nominates and appoints his Majesty's lovit B. G. farrier in the abbey of Holy-rood-house, to be his Majesty's horse leitch or farrier within the kingdom of Scotland, during all the days of his lifetime; giving and granting to him the foresaid office during the said space, with all fees, duties, privileges, immunities, and others whatsomever belonging thereto, or that may pertain or belong to any other of his Majesty's servants, or that has formerly pertained and belonged to any of his Majesty's farriers; *with power* to him, by himself, his servants and others in his name, (for whom he shall be answerable,) to use, exerce, bruik and enjoy the said office, during the said space, with all fees, duties, privileges, immunities, and others thereto belonging, and to do all things whatsomever requisite and necessary thereanent: And for the said B. G. his encouragement in the said service, his Majesty doth hereby give and grant to him an house and shop within the precinct of his Majesty's palace of Holy-rood-house, to be bruiked and enjoyed by him during his service. And in respect, by several acts of parliament and council, and particularly, by the 275th act of the 15th parliament of his Majesty's grandfather King James the sixth, of ever blessed memory, those who are employed in his Majesty's service, (as one of each occupation,) are exempted from bearing any burden, watching or warding within burgh with the rest of the neighbours; *Therefore*, his Majesty, with consent foresaid, wills and declares, that the said B. G. shall enjoy the benefit of the said act of parliament, and of all other acts of parliament and council whatsomever,

whatſomever, conceived in favours of thoſe who are employed in his Highneſs's ſervice, freely, quietly, well and in peace, but revocation; and that the ſaid letter be further extended in the beſt form, with all clauſes needful. *Given at*

WARRANT *of being his Majeſty's Maſter-Cooper, in favours of* John Keir, *Cooper in* Leith.

OUR SOVEREIGN LORD conſidering, that the office of maſter-cooper to his Majeſty in Scotland is now vacant, and at his Highneſs's gift and diſpoſition by the deceaſe of F. W. and that J. K. cooper in Leith, is a fit perſon for exercing the ſame; *Therefore*, his Majeſty gives, grants and diſpones to the ſaid J. K. during all the days of his lifetime, the ſaid office of maſter-cooper within the kingdom of Scotland, with power to him to uſe and exerce the ſame, as freely in all reſpects, and to intromit with, and uplift the caſualties, profits and emoluments belonging thereto, as any other maſter-cooper within the ſaid kingdom did or might have done at any time before; and for the ſaid J. K. his encouragement to exerce the ſaid office, his Majeſty gives, grants and diſpones to him, during all the days of his lifetime, the ſum of twenty pounds Scots money of fee, to be paid to him by his Majeſty's treaſurer, or commiſſioners of the treaſury, at two terms in the year, Whitſunday, and Martinmas in winter, by equal portions, beginning the firſt term's payment thereof at the feaſt and term of Whitſunday next to come; requiring and commanding his Majeſty's treaſurer, or commiſſioners of the treaſury, preſent or to come, to make payment to the ſaid J. K. during all the days of his lifetime, of the ſaid ſum of twenty pounds Scots money of fee yearly, at the terms above written, and that out of the firſt and readieſt of his Majeſty's rents and revenues, and which ſhall be allowed to them in their accompts: And ordains theſe preſents to be further extended in the beſt form, with all clauſes needful, and to paſs his Majeſty's privy ſeal of the ſaid kingdom; for doing whereof, this ſhall be to all perſons that may be therein concerned a ſufficient warrant. *Given at.*

GIFT *to be his Majeſty's Baker, in favours of* William Mitchell, *Baxter, Burgeſs of* Edinburgh.

OUR SOVEREIGN LORD, with advice and conſent of the Lords commiſſioners of his Majeſty's treaſury and exchequer of the kingdom of Scotland, ORDAINS a letter of gift to be made and paſſed under his Majeſty's privy ſeal of the ſaid kingdom, in favours of his Majeſty's lovit W. M. baker, burgeſs of Edinburgh, making, conſtituting, and ordaining the ſaid W. M. during all the days of his lifetime, ſerjeant of his Majeſty's paſtry, and maſter-

ſter-baker to all his Majeſty's high commiſſioners of the ſaid kingdom, during the ſpace foreſaid; giving and granting to the ſaid W. M. during his ſaid lifetime, as ſaid is, the office foreſaid, with all and ſundry fees, profits, commodities, privileges, immunities, emoluments and caſualties whatſomever thereto pertaining and belonging, as fully and freely in all reſpects, as the deceaſed W. M. baker burgeſs of Edinburgh, father to the ſaid W. M. or as umquhil R. M. baker burgeſs of Canongate, laſt poſſeſſor of the ſaid office, or any other his predeceſſors therein, exerced and enjoyed, or lawfully might have exerced and enjoyed the ſame at any time heretofore; and particularly, the ſpecial privilege and immunity of being freed and exeemed from all ſtents, taxations, watchings, wardings, and other impoſitions whatſomever, impoſed, or to be impoſed hereafter, conform to the 275th act of the 15th parliament of our royal grandfather King James the ſixth, and other acts of parliament and council of our ſaid kingdom, made in favours of his Majeſty's tradeſmen and ſervants: *With full power* to the ſaid W. M. to uſe, enjoy and exerce the ſaid office, privileges, fees and profits thereof, freely, quietly, well, and in peace, without any revocation, obſtacle, impediment, or again-calling whatſoever, prohibiting and diſcharging all other perſons whatſomever, from all uſing and exercing the ſaid office, or anywiſe meddling therein, or with any of the profits, fees, or privileges thereto belonging, during the ſaid ſpace; and that the foreſaid letter be further extended, with all clauſes needful. *Given at the court at* Whitehall *the 22d day of* March 1686-7, *and of his Majeſty's reign the third year.*

WARRANT *for a Gift of the Office of being his Majeſty's Clockmaker, and Keeper and Dreſſer of his Majeſty's Clocks, Watches and Pendulums, within the Kingdom of* Scotland, *in favours of* John Alexander.

OUR SOVEREIGN LORD underſtanding, that the place and office of his Majeſty's clockmaker, and keeper and dreſſer of his Majeſty's clocks, watches and pendulums, in his Majeſty's palaces and houſes in his ancient kingdom of Scotland, is now vacant in his Majeſty's hands, and at his gift and diſpoſition, by and through the deceaſe of J. B. laſt poſſeſſor thereof; and his Majeſty being informed of the qualifications and fitneſs of J. A. clockmaker and burgeſs of Edinburgh, to exerce the ſame, and of his affection to his Majeſty's ſervice; *Therefore*, our ſaid Sovereign Lord, (with advice and conſent of the right honourable the Lords commiſſioners of his Majeſty's treaſury, and of the remanent Lords and others of his Majeſty's exchequer,) ORDAINS a letter to be paſt under his Majeſty's privy ſeal of his ſaid kingdom, giving, granting and diſponing, likeas, his Majeſty, by theſe preſents, gives, grants and diſpones unto the ſaid J. A. during all the days of his life, the ſaid place and office of his Majeſty's clockmaker, and keeper and dreſſer of his Majeſty's clocks, watches and pendulums in his ſaid kingdom, to be enjoyed and exerced by him,

during the ſpace foreſaid, with all and ſingular the freedoms, liberties, immunities, privileges, fees, profits and caſualties whatſoever thereunto belonging, as fully and freely in all reſpects and conditions, as the ſaid deceaſed J. B. or any of his predeceſſors in the ſaid place and office did poſſeſs and enjoy, or might have poſſeſſed or enjoyed the ſame at any time heretofore: And foraſmuch as, by ſeveral acts of parliament and council, but particularly, by the 275th act of the 15th parliament of his Majeſty's royal grandfather King James the ſixth, of bleſſed memory, they who are employed in his Majeſty's ſervice, (as one of each occupation or trade,) are exempted from bearing any burden of watching and warding within burgh with the reſt of the neighbours; *Therefore*, his Majeſty declares and ordains, that the ſaid J. A. ſhall enjoy the benefit of the ſaid act of parliament, and of all other acts of parliament or council whatſoever, conceived in favours of ſuch tradeſmen as are employed in his Majeſty's ſervice; and ordains the ſaid letter to be further extended in the beſt form, with all clauſes needful. *Given at*

WARRANT *for a Gift of the Office of being Purveyor and Proviſor of the Cloth, and Maker of the Gowns to the King's Beid-men, in favours of* W. Calderwood.

OUR SOVEREIGN LORD underſtanding, that, by the late deceaſe of J. W. the place and office of purveyor, and proviſor of the cloth, and maker of the gowns to the poor old men, commonly called the King's beid-men, in his ancient kingdom of Scotland, is now vacant in his Majeſty's hands, and at his gift and diſpoſition; and his Majeſty being ſufficiently informed of the honeſty of W. C. and of his qualifications fit for exercing the ſaid office; *Therefore*, his Majeſty ordains a letter to be paſſed under the privy ſeal of his ſaid kingdom, nominating, making, conſtituting and appointing, likeas, his Majeſty, by theſe preſents, (with the advice and conſent of the right honourable the Lords commiſſioners of his Majeſty's treaſury, and of the remanent Lords and others of his Highneſs's exchequer,) nominates, makes, conſtitutes and appoints the ſaid W. C. during all the days of his life, to be purveyor and proviſor of the cloth, and maker of the gowns to the ſaid poor old men, commonly called the King's beid-men, yearly, at the time when they uſe to have the ſaid gowns made for them, which is his Majeſty's birth-day, giving, granting and diſponing the ſaid place and office to the ſaid W. C. during the ſpace foreſaid, with all fees, benefits, profits, privileges, immunities, commodities and duties whatſoever thereunto belonging: *With full power* to the ſaid W. C. either by himſelf or his deputes, (for whom he is to be anſwerable) to uſe and exerce the ſaid place and office during the ſpace foreſaid, as fully and freely in all reſpects and conditions, as the ſaid J. W. or any of his predeceſſors therein, have, or might have enjoyed the ſame at any time heretofore, diſpenſing with the generality

nerality foreſaid, and ordaining theſe preſents to be extended in the beſt form, with all clauſes needful. *Given at*

WARRANT *for a Patent to* W. H. R. P. C. D. *and* S. S. *to practiſe the Art of weighing up, and recovering Ships, &c. in the* Scots *Seas and Harbours, for fourteen years.*

OUR SOVEREIGN LORD, taking into his royal conſideration the propoſal and overtures made by W. H. R. P. C. D. and S. S. of the city of London, merchants, undertakers for weighing up, recovering and obtaining (from under water) ſhips, guns, treaſure, and other goods ſhipwrecked or loſt in harbours, roads, or at ſea, by ſeveral engines and inſtruments, with the advice and conſent of *(here inſert the conſents according to the conſtitution for the time, and then ſay)* ORDAINS a letter or patent to be made and paſſed under the privy ſeal of the ſaid kingdom, in due and competent form, giving and granting, as his Majeſty, with advice and conſent foreſaid, hereby gives and grants to the ſaid W. H. R. P. C. D. and S. S. their heirs, executors and adminiſtrators, full and ſole power, licence, privilege and authority, that they and their workmen and ſervants, deputes and aſſignees, and no other perſon, ſhall and may, during the full term and time of fourteen years, uſe, practiſe, and put in execution the ſaid art, within the ſeas and roads of and belonging to his Majeſty's ſaid kingdom of Scotland, and that they the ſaid W. H. R. P. C. D. and S. S. their workmen, ſervants, deputes and aſſignees, and no other perſon or perſons, ſhall and may, during the term and time aforeſaid, weigh up, recover and obtain from under water, within the roads and ſeas aforeſaid, or any of them, all, or any ſhips, or ſhip-guns, treaſure, and other goods which have been ſhipwrecked, loſt and ſunk, and do now ly under water in any of the roads and ſeas aforeſaid, and particularly a ſhip of the Spaniſh Armado, which came to invade the kingdom of England, in the year of our Lord One thouſand five hundred and eighty-eight, ſunk in the weſtern ſeas of his Majeſty's ſaid kingdom of Scotland, and the guns and treaſury of or belonging to, and ſunk in the ſaid ſhip, as well as other ſhips and ſhips guns, treaſury and goods in the ſame, or any other the ſeas aforeſaid, or within any of the roads above written, and every of them, and for the ends and purpoſes aforeſaid, to ſend, uſe and employ ſhips, veſſels, men, and other things neceſſary: And his Majeſty doth hereby will and command all his ſubjects, to give free liberty to them to work at all times, places and occaſions, ſtrictly prohibiting any other of his ſubjects to trouble, moleſt or impede the ſaid undertakers in the foreſaid affair, as they will be anſwerable at their higheſt perils; they being always obliged (as by the acceptance hereof they become bound) to perform and fulfil to his Majeſty, and his royal ſucceſſors, the articles and agreements following, *viz.* That they ſhall anſwer and pay to his Majeſty and his ſucceſſors, in manner following, one full moiety of the clear va-

lue of the ſaid things ſo to be recovered and obtained, after the full charges, in, for and about the recovery and obtaining thereof (wherein freight and ſhip-hire, as well as other charges, are to be included) ſhall thereout be firſt deduced and allowed to the ſaid undertakers and their aſſignees; which charges his ſaid Majeſty doth will and order ſhall be deduced and allowed accordingly: And for preventing of any fraud or debates about the ſame, his Majeſty doth further will and ordain, that after the ſaid undertakers, their ſervants or aſſigns, ſhall have weighed up, recovered and obtained any ſuch ſhip or ſhips, guns, treaſure or goods, they, or ſome of them, ſhall from time to time, in every ſuch caſe, forthwith give notice thereof unto his Majeſty's chief officer of and for the cuſtoms in the next port or place within the ſaid kingdom of Scotland, who from thence, during the ſpace of five or ſix days, with ſuch others as he ſhall think fit, ſhall have full and free liberty, in the preſence of the ſaid undertakers, their deputies or aſſignees, to view and appriſe the things ſo recovered and obtained, and then and there the ſaid undertakers, their deputies or aſſignees, ſhall likewiſe ſtate and deliver to the ſaid officer a true account of ſuch whole charges thereof as aforeſaid; which accounts ſhall for the preſent be admitted, but ſubject to ſuch further examination and correction as herein is mentioned: And his Majeſty doth further order, that the ſaid undertakers, their deputies or aſſignees, ſhall thereupon have liberty and election to demand of the ſaid officer the ſaid whole charges, together with a full moiety of the value of the ſaid things remaining, after the charges are deduced, at the rate they ſhall be ſo appriſed; and if the ſaid officer, within ſix days next after ſuch appriſements and demand made, ſhall pay the ſame in money to the ſaid undertakers, their deputies or aſſignees, they ſhall deliver the ſaid things recovered to the ſaid officer, for the uſe of his Majeſty; but in default of payment thereof, as aforeſaid, the ſaid appriſement ſhall not bind the ſaid undertakers, or their aſſignees; and his Majeſty, in ſuch caſe, or in default of any ſuch appriſement, doth will and ordain, that they the undertakers may ſell and diſpoſe thereof (in any part of the kingdom of England or Scotland, and not elſewhere) for the beſt price they can *bona fide* get; and within ten days after the ſale thereof, and their receipt of the money for the ſame, they ſhall anſwer and pay to his Majeſty, or for his Majeſty's behoof, to his right truſty and well beloved couſin and counſellor J. V. of M. Lord ſecretary of ſtate for the ſaid kingdom of Scotland, or any others who ſhall be empowered by his Majeſty, or the ſaids Lords commiſſioners of exchequer for that effect, at Guildhall in London, one full moiety of the real proceed thereof, all incident charges being firſt to them allowed and deduced; but if, after ſuch appriſements, they ſhall not demand the ſaid money of the ſaid officer, but ſhall elect otherways to diſpoſe of the ſaid things ſo recovered and appriſed, then alſo they may proceed to ſell and diſpoſe of the ſaid goods, in any part of England or Scotland, and not elſewhere; but in ſuch caſe ſhall be ſo bound by the ſaid appriſement, that they ſhall, within ſix months after, anſwer and pay to his Majeſty, or for his Majeſty's uſe, to the ſaid J. V. of M. or others foreſaid, at Guildhall in London, one full moiety of the value of the things recovered, at the rate they were appriſed, the

ſaid

ſaid whole charges in and about the recovery thereof being firſt to them allowed and deduced, and ſhall retain and enjoy the reſidue of the whole proceed of the ſaid goods to their own uſe; and his Majeſty ſhall and may at his pleaſure cauſe the matter of any ſuch charges, or accompt of charges, to be examined, ſtated, and finally determined and adjudged in his exchequer in Scotland, or by the ſaid J. V. of M. or any other who ſhall be empowered by his Majeſty, or the ſaids Lords commiſſioners of treaſury for that effect, and whoſe diſcharges to them ſhall be as valid and ſufficient, as if they were granted by the ſaids Lords commiſſioners themſelves, and what ſhall be ſo determined and adjudged, ſhall in all things be performed by the ſaid undertakers and their aſſignees, provided ſuch proceſs and final judgment be had and given within the ſpace of a year next after the ſaids things ſhall be ſo recovered, or otherwiſe the account to be given in by the ſaid undertakers, their deputies or aſſignees, ſhall ſtand unimpeached, providing always the undertakers foreſaid work upon the ſaid Armado-ſhip, once every two years at leaſt (wars and commotions being excepted), of which if they ſhall fail, this gift of itſelf ſhall become void, without any further declaration or revocation whatſoever, the undertakers being ſtill liable as aforeſaid for any thing formerly recovered by them, and not accompted for as above: And his Majeſty ordains the ſaid letter or patent to be extended in moſt ample form, with all clauſes needful. *Given at*

GIFT *to* Kenneth *Earl of* Seaforth, *of the bygone Feu-duties of the* Lewes.

OUR SOVEREIGN LORD, for ſeveral weighty conſiderations moving his Majeſty to the effect under written, being willing to confer a mark of his royal favour and bounty on his Majeſty's right truſty and well-beloved couſin K. E. of S. Lord M. and K. *Therefore*, his Majeſty, with advice and conſent of *(here inſert the conſents according to the conſtitution for the time, and then ſay)* ORDAINS a letter to be made, and paſſed under his Majeſty's privy ſeal, in due and competent form, giving, granting, and diſponing, likeas his Majeſty, with advice and conſent foreſaid, hereby gives, grants, and diſpones to the ſaid K. E. of S. *&c.* and his heirs and aſſignees, the feu-duties due and payable by the ſaid K. E. of S. *&c.* and his predeceſſors, to his Majeſty, forth of the lands and barony of the Lewes, extending to three thouſand merks yearly, and that of all years and terms bygone, reſting, owing unpaid ſince the year One thouſand ſix hundred and ſeventy-four, to the year of God One thouſand ſix hundred and eighty *incluſivè*, being the ſpace of ſix years; with all right and title his Majeſty has, or may pretend thereto: *With full power* to the ſaid K. E. of S. *&c.* and his foreſaids, to intromit with, uplift, aſk, crave, and receive the ſaids feu-duties, the years of God above ſpecified; and if need beis, to conveen, call, follow, and purſue therefor, as accords, compone, tranſact and agree thereanent, and to give diſcharges, which ſhall be ſufficient to the receivers, and to do all other things anent

nent the ſame, as accords: *Requiring* hereby the Lords commiſſioners of his Majeſty's treaſury to concur with, and aſſiſt him in uplifting of the ſaids feu-duties, and to allow of ſuch diſcharges as ſhall be granted by him of the ſaids feu-duties, and grant equies in exchequer thereupon; and that the ſaid letter be extended in ample form, with all clauſes requiſite. *Given at*

GIFT *of Uſury in favours of* John Paterſon *Writer in* Edinburgh.

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here inſert the conſents, according to the conſtitution for the time, and then ſay)* ORDAINS a letter to be made and paſſed under his Majeſty's privy ſeal, to J. P. writer in Edinburgh, his heirs and aſſignees, one or more, of the gift of two thouſand merks Scots money of principal, with the annualrents and penalties correſponding thereto, contained in a bond and obligation made and granted by the deceaſed Mr. P. B. preſenter of the ſignatures in exchequer, and W. B. his eldeſt lawful ſon, to P. D. in Aytoun Old Mill, and the deceaſed J. B. his ſpouſe, bearing date the —— day of —— years, now pertaining to our ſaid Sovereign Lord, fallen and become in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, through the ſaid P. D. his taking of more annualrent for the ſaid principal ſum than the laws of this kingdom did allow, and particularly through his taking ſix for the hundred of the foreſaid ſum, betwixt the term of Martinmas 16— years, and the term of Martinmas then enſuing 16— years; whereas by his Majeſty's laws, five for the hundred was only ordained to be taken for that year; and through the ſaid P. B. his not allowing to the ſaid W. B. of that which he had taken more than five for the hundred in the ſubſequent year's annualrent, and thereby being guilty of uſury, by the laws and acts of parliament of this kingdom, and of the gift of the ſaid bond, haill ſums of money, principal, annualrent, and expences therein contained, with all that has followed, or may follow thereupon; hereby giving, aſſigning, and diſponing the ſame, and haill benefit thereof, to the ſaid J. P. and his foreſaids: *With full power* to them to purſue declarators againſt the ſaid P. D. for hearing and ſeeing him declared to be guilty of uſury, in manner above mentioned, as accords of the law; and with power likeways to the ſaid J. P. to uplift and receive the ſums of money, principal, annualrent, and expences above written, contained in the ſaid bond, from the ſaid W. B. or others the repreſentatives of the ſaid Mr. P. and upon the receipt of the ſame, in haill or in part, acquittances and diſcharges to make, grant, ſubſcribe, and deliver, and if need beis, to call and purſue therefor, as accords; and to do all other things requiſite and neceſſary anent the premiſſes, freely, quietly, well and in peace, but any revocation, *&c.* and that the ſaid gift be farther extended, with all clauſes neceſſary. *Given at*

This gift was rejected in the inner-houſe by the Lords ſolemn ſentence *in præſentia*, upon theſe grounds; 1. The donatar acknowledged his name was only borrowed for the debitor's

bitor's behoof. 2. After trial, it was found, the debitor cauſed draw the diſcharge at Edinburgh, and ſent it to the Merſe with the 80 l. which was the year's annualrent, without taking off the year's retention, which was one *per cent.* and ſo of deſign to bring the poor man under the compaſs of uſury; but the Lords ordained the ſixth part to be allowed in the next year's annualrent, *et bene judicatum.*

GIFT *of the Office of his Majeſty's Geographer for his Kingdom of* Scotland, *to Sir* Robert Sibbald *Doctor of Medicine.*

OUR SOVEREIGN LORD taking into his royal conſideration, that there is in his ancient kingdom of Scotland abundance of rare and uſeful plants, and of animals four-footed, fowls, fiſhes and inſects, and of minerals and metals, and of ſubſtances found in and caſt up by the ſea, which, if they were known, and their nature, virtues and uſes, might conduce very much for the improvement of ſeveral arts and trades, and might much advance the ſciences of medicine and natural hiſtory, which are ſo neceſſary for conſervation of his Majeſty's lieges; and conſidering that it might (in proceſs of time) tend to the enriching of his ſaid kingdom, by keeping in the money which is ſent abroad, (the greateſt part of thoſe ſimples that are much uſed, being to be found at home,) and by the employing of ſeveral of his ſubjects, in the ſearch, recovery and preparation of them, being ſo many (eſpecially minerals, metals and animals) as may well anſwer thoſe ends, and they may likeways be afforded at much eaſier rates than they can be imported for; and his Majeſty, conſidering that the beſt expedient for the diſcovery and improvement of them for thoſe uſes, is the publiſhing a natural hiſtory of them, which may give an account of the places where they are to be found, the way they are to be diſcovered, the manner how they are to be prepared, and to explain the nature, virtues, and uſes of them; and conſidering likewiſe that it is for his honour and glory, and of great uſe for his ſaid kingdom, that a juſt and full deſcription be given of the ancient monuments of the ſaid kingdom, and of the ſheriffdoms, royal burghs, towns, rivers, friths, bays, ports, roads, lochs, and of his caſtles and forts, the houſes of his nobility and gentry, and of what elſe is obſervable in the ſaid kingdom; and his Majeſty being well informed of the integrity, loyalty, learning and fit qualifications of his truſty and well-beloved S. R. S. doctor of medicine, and of the loyalty and ſufferings of his father, and other relations, for adhering conſtantly to his Majeſty's royal father's ſervice; and that after he had improved himſelf by his ſtudies, in the moſt famous univerſities at home and abroad, and by ſeveral years travel in the places of Europe moſt famous for learning, and the liberal arts, he hath now (out of his affection to his Majeſty's ſervice) theſe twenty years paſt, made it his work to inform himſelf of all that relateth to the natural hiſtory of the ſaid kingdom, and of the antiquities and curioſities obſervable therein, and hath with much pains and experience formed a natural hiſtory thereof, and deſcriptions both of the *Scotia antiqua et Scotia moderna*, where the ancient monuments, inſcriptions, and

and plans of camps are ſet down, and ſeveral maps of the ſhires, never deſigned before, are exactly done, their bays and ports diſtinctly marked; as likeways, hath cauſed to be deſigned, and cut in copper-plates, the figures of ſuch ſubjects of natural hiſtory as either were never done before, or not right done; and hath made juſt and full deſcriptions of them, and explaineth the nature, virtues and uſes of all the ſimples found in Scotland, with the ways how they may be employed for the advancement of ſciences, arts and trades, and for the profit and benefit of the lieges: *Therefore*, his Majeſty, of his own proper motive and inclination, and out of his care and tenderneſs, for the weal of his ſaid kingdom, and princely affection to all kind of learning, and more particularly to the ſtudy of medicine and natural hiſtory, by which ſuch great advantages may redound to him and his ſubjects, ORDAINETH a letter to be made, and paſſed under the privy ſeal of his ſaid kingdom, nominating, conſtituting and ordaining, likeas his Majeſty, by theſe preſents, nominates, conſtitutes and ordains the ſaid S. R. S. doctor of medicine, to be his geographer for the ſaid kingdom, during all the days of his life, giving, granting, and beſtowing the ſaid office of geographer to, and upon him, to be poſſeſſed and enjoyed by him, fully and freely in all reſpects and conditions, with all the profits, benefits, privileges, liberties, immunities, and all the caſualties whatſoever due to the ſaid office, or that ſhall hereafter be known to pertain or belong thereunto: *With full power* and authority to make the maps and deſcriptions of the ſeveral ſhires of the ſaid kingdom, and of the kingdom in general, friths, bays and rivers thereof, and of the royal burghs, towns, caſtles, and forts, and of the houſes of the nobility and gentry, of the monuments, and what elſe is obſervable therein; and to write the natural hiſtory and deſcription of all the natural products of the ſaid kingdom, the nature, virtue and uſes, and to exerce all acts belonging to his Majeſty's geographer, and enjoy all the honours due to him as ſuch; and eſpecially commanding and ordaining the ſaid S. R. S. to publiſh his ſaid deſcriptions, both of the *Scotia antiqua et moderna*, and of the natural hiſtory of the products of the ſaid kingdom of Scotland; with full liberty and privilege to the ſaid S. R. S. to print them either in the Latin or the Engliſh tongue, or both, and in what form he pleaſeth, the whole or the prodromus, or any parts of them, and to make uſe of what printer or printers he pleaſeth, with prohibition to all other printers in his Majeſty's dominions of Scotland, under the uſual pains to print for the ſpace of ten years after the date hereof, in any form or language, the whole, or any part of them, without the conſent and allowance of the ſaid S. R. S. And his Majeſty ordains the ſaid letter to be further extended, in the beſt form, with all clauſes needful. *Given at the court at Whitehall the* 30*th day of September* 1682, *and of his Majeſty's reign the* 34*th year.*

WARRANT

WARRANT *for a Gift of the Wards, &c. from the 1st Auguſt 1674, and in time coming, until paid of* 8000 *l.* Sterling, *in favours of* James *Earl of* Perth, *Lord High Chancellor of* Scotland.

OUR SOVEREIGN LORD conſidering the ſmall advantage his Majeſty has by the caſualties belonging unto him, out of the lands holden of his Majeſty, for himſelf as King, or as Prince and Steward of Scotland, ward, ſimple or taxed, or feu with the marriage, or by the non-entry of vaſſals, holding their lands ward, or blench, or feu; and withal conſidering the faithful ſervices done by his Majeſty's right truſty and right well beloved couſin and counſellor J. E. of P. L. D. of Stobhall, high chancellor of his Majeſty's ſaid kingdom, to his Majeſty and his moſt intirely beloved royal brother King Charles the ſecond, of ever bleſſed memory, and the eminent loyalty and ſignal ſervices of the family of Perth; *Therefore*, our ſaid Sovereign Lord, with the advice and conſent of his Majeſty's right truſty and right well beloved couſins and counſellors W. D. of Q. preſident of his Majeſty's privy council of the ſaid kingdom, J. M. of A. Lord privy ſeal, W. D. of H. G. V. of T. and of his Majeſty's right truſty counſellor lieutenant-general W. D. of C. commiſſioners of his Majeſty's treaſury, and of the remanent Lords, and others commiſſioners of his Majeſty's exchequer, ORDAINS a letter of gift to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, giving, granting and diſponing, and, by the tenor hereof, his Majeſty gives, grants and diſpones, to and in favours of the ſaid J. E. of P. his heirs and aſſignees, (ſecluding his executors,) the haill wards and marriages, whether ſimple or taxed, that have fallen in the hands of his Majeſty, or his royal brother aforeſaid, ſince the firſt day of Auguſt 1674, or ſhall fall in his Majeſty's hands in time coming, until the ſaid Earl and his foreſaids ſhall be fully ſatisfied and paid of the ſum after mentioned, free of all charges and expences, by the deceaſe in that time of any of his Majeſty's vaſſals, holding their lands either ſimple-ward, or taxed-ward, or feu with the marriage of our ſaid Sovereign Lord, for himſelf as King, or as prince and ſteward of Scotland; and that whenſoever the perſons are marriageable, whoſe marriages ſhall fall within the time aforeſaid, together with all other caſualties, benefices, ſums of money, and other advantages that have been due, or ſhall become due, or appertain to his Majeſty, in the ſame manner, and as freely as uſes to belong to his Majeſty, or any of his donatars of wards and marriages, or as if the ſaid J. E. of P. had obtained particular gifts of the ſaids wards and marriages after the ſame did fall: *With power* to the ſaid J. E. of P. and his foreſaids, to compone, tranſact and agree thereanent, or otherwiſe to intromit with, uplift and receive the haill rents, benefits and caſualties of the ſaids wards and marriages during all the time that the ſame ſhall be due, ay and while the heirs ſhall attain to perfect age, in the ſame manner, and as amply as any other donatar of wards and marriages uſes to do in the like caſes, or as his Majeſty might have done before the making hereof. *And likewiſe*, our ſaid Sovereign

Lord gives, grants and diſpones to the ſaid J. E. of P. and his foreſaids, the whole non-entries due ſince the ſaid firſt day of Auguſt 1674 years, or that ſhall be due, as aforeſaid, of vaſſals holding lands of his Majeſty, as King, or as prince and ſteward of Scotland, either ſimple, or taxed-ward, or blench, or feu within the time aforeſaid; and hereby empowers the ſaid J. E. of P. his heirs and aſſignees, to uplift the haill benefit and ſums of money ariſing from wards, whether ſimple or taxed, marriages or non-entries, as ſaid is, from thoſe who are liable for the ſame, or from any perſon appointed, or that ſhall be appointed by his Majeſty for collecting thereof, and to employ and apply the ſame to his own proper uſe, without making any other accompt thereof, further than as is after mentioned: *Requiring* hereby all perſons liable, or the collector appointed, or who ſhall be appointed for uplifting thereof, to make payment of the ſame to the ſaid J. E. of P. and his foreſaids, whoſe receipt thereupon ſhall be a ſufficient exoneration to all perſons liable, and to the collector preſent, or for the time being: Ordaining alſo hereby the auditors of his Majeſty's accompts to allow the ſame, and the commiſſioners of his Majeſty's treaſury, and remanent Lords and others commiſſioners of exchequer, to record theſe preſents in the books of exchequer. And it is hereby expreſly declared, that all wards, marriages and non-entries, before the date of theſe preſents, gifted by his Majeſty to any other perſon, and already compounded in exchequer, are excepted from this gift: And it is likewiſe provided and declared hereby, that the ſaid J. E. of P. and his foreſaids, being ſatisfied and paid of the ſum of —— pounds Sterling money, free of all charges and expences, this gift ſhall from thenceforth become void and null: And to the end it may be known and inſtructed when the ſaids ſums ſhall be ſo paid to him, his Majeſty hereby ordains and appoints all compoſitions and agreements that ſhall happen to follow hereupon, to be made in the preſence, and at the ſight of the ſaids Lords commiſſioners of his Majeſty's treaſury, or any one of them, or any other that ſhall be appointed by his Majeſty for that effect; and likewiſe an accompt to be made by the ſaid E. and his foreſaids in exchequer, of all rents, benefits and caſualties that ſhall happen to be intromitted with, uplifted and received by him or his foreſaids, when the perſons concerned in the wards, and others above mentioned, ſhall refuſe to agree and compone for the ſame, to the effect it may be known when he is ſatisfied, as ſaid is. And his Majeſty in like manner hereby ordains and requires all his miniſters and officers whom it effeirs, to be aiding and aſſiſting to the ſaid E. of P. and his foreſaids, for the moſt ſpeedy payment and inbringing to him of the compoſitions to be made, as ſaid is, until the ſum of —— pounds Sterling money, free of all charges and expences, as ſaid is, ſhall fully be made effectual, or paid to him or them. *And laſtly*, his Majeſty ordains the ſaid letter of gift to be further extended, in the moſt ample and beſt form, with all clauſes needful, for which theſe preſents ſhall be to all perſons reſpectively, who may be thereby anywiſe concerned, ſufficient warrant. *Given at the court at* Whitehall *the 16th day of* April 1686, *and of his Majeſty's reign the ſecond year.*

WARRANT

WARRANT *for a Commiſſion to uplift the former Rents and Caſualties in in favours of* G. D. *of* B. *Depute-keeper of the Signet.*

OUR SOVEREIGN LORD conſidering, that the taxed duties of marriages, converted from ſimple to taxed wards, and the avails of all other marriages of ſimple ward-lands, and lands holding feu with the marriage, and the yearly rents and duties of the ſame lands during the ward and non-entry, have not been uplifted, charged for, nor proſecute, or collected; notwithſtanding of his Majeſty's unqueſtionable right to the ſame; and his Majeſty having, upon divers conſiderations moving him thereto, granted warrant and full power to J. E. of P. Lord high chancellor of his ancient kingdom of Scotland, to collect and uplift the ſaids wards, and to apply the ſame to his own behoof, ay and till he be fully paid and ſatisfied of the ſum of —— pounds Sterling; and in regard the collection of the ſaid wards will be both troubleſome and painful, and will require the abilities and qualifications of one that is well acquainted with the affairs of the kingdom; and our ſaid Sovereign Lord being informed of the abilities and qualifications of G. D. of B. depute-keeper of his Majeſty's ſignet, under the Viſcount of M. and how uſeful he may be for the managing and inbringing that part of his Majeſty's revenue; *Therefore*, his Majeſty ORDAINS a commiſſion to be paſſed and expede under the privy ſeal of his ancient kingdom of Scotland, in due form, giving, granting and diſponing, as, by theſe preſents, his Majeſty gives, grants and commits to the ſaid G. D. full power, warrant, order and commiſſion, (which ſhall continue ay and while his Majeſty ſhall think fit to diſcharge the ſame under his royal hand,) to proſecute, purſue, collect and uplift all taxed ward-duties, non-entries of ſimple or taxed ward-lands, with the reliefs thereof, and taxed avails of marriages, and the avails of marriages not taxed, whether of ſimple ward-lands, or of lands holding feu, with the marriages that have fallen in the hands of his Majeſty, or in the hands of his deareſt brother King Charles the ſecond, (of bleſſed memory,) for themſelves, as Kings, or as princes and ſtewards of Scotland, of all years and terms bygone, ſince the firſt day of ——— in the year 1674, and in time coming, during the whole ſpace above mentioned, ay and while his Majeſty ſhall think fit to diſcharge theſe preſents, which have not been particularly compted for and paid, and whereof his Majeſty or his royal brother have not given particular gifts and grants before the date hereof; with power alſo to the ſaid G. D. to call and purſue therefor before whatſomever judges competent, and to uſe all manner of legal diligence uſual and allowable for recovering payment thereof, and to grant diſcharges upon the receipt of the ſame, which ſhall be ſufficient to the receivers, and generally all other things anent the premiſſes to do, uſe and exerce, which any other perſon commiſſioned by his Majeſty to the effect above ſpecified have done, or may lawfully do, the ſaid G. D. being always holden to compt for what ſhall be intromitted with and recovered, by virtue of this commiſſion, to the commiſſioners of his Majeſty's treaſury, or to any others, as his Majeſty has

given, or ſhall give orders. And likewiſe, our ſaid Sovereign Lord, for the ſaid G. D. his further encouragement in the proſecution hereof, has allowed, and, by theſe preſents, allows a fifth part of what he ſhall recover and compt for, by virtue of this commiſſion, for his pains in uplifting of the ſame: And his Majeſty wills and requires the ſaids Lords commiſſioners of his Majeſty's treaſury, or others to whom the ſaid G. D. is, or ſhall be appointed to compt, to allow the ſame to him in the firſt end thereof, together with his neceſſary charges in recovering of the ſame: And in like manner, wills and requires the Lords of council and ſeſſion, Lords and other commiſſioners of exchequer, to give out letters of horning, for charging all perſons having intereſt, at the inſtance of the ſaid G. D. for the due proſecution hereof, and that the ſaid commiſſion be further extended in the beſt form, with all clauſes needful. *Given at the court at* Whitehall *the 26th day of* April 1686, *and of his Majeſty's reign the ſecond year.*

WARRANT *for a Gift of the concealed Feu and Blench Duties to the Lord High Chancellor, until he ſhall be paid of* 8000 l. Sterling, *mentioned in his former Gift of Wards.*

OUR SOVEREIGN LORD, taking into his royal conſideration, that by a gift under his Majeſty's privy ſeal of his ancient kingdom of Scotland, of the date the 16th day of April 1686 years, his Majeſty gave, granted and diſponed to his right truſty and right well beloved couſin and counſellor J. E. of P. Lord high chancellor of the foreſaid kingdom, his heirs and aſſignees (ſecluding his executors) the haill wards and marriages, whether ſimple or taxed, that have fallen in the hands of his Majeſty or his royal brother, for themſelves, as kings, or as princes and ſtewards of Scotland, ſince the 1ſt day of —— 1674 years, or which ſhould fall thereafter, until the ſaids E. and his foreſaids were fully ſatisfied and paid of the ſum of —— pounds Sterling, free of all charges and expences, together with the haill non-entries of vaſſals holding lands ſimple, or taxed ward, blench or feu within the time aforeſaid, as in the ſaid gift at more length is expreſſed; and his Majeſty likewiſe conſidering, that the wards, marriages and non-entries, being caſual and contingent, are oftentimes not known when they fall, and when they are known, there is much time ſpent by proceſs of long dependence for recovering thereof, ſo that the favour intended by his Majeſty to the ſaid E. of P. cannot be effectual for a long time; and his Majeſty being informed, that the blench and feu-duties of divers lands due to his Majeſty for himſelf, as king, and as prince and ſteward of Scotland, have been concealed, and not in uſe for ſeveral years to be paid into his Majeſty's exchequer, nor entered in the ordinary rolls of his Majeſty's rents, through the negligence or ignorance of chamberlains, and others employed for uplifting and receiving the ſame; and it being for his Majeſty's intereſt, and an addition to his revenue, that

that the ſame be diſcovered and uplifted by diligence, ſo that in time coming there may be left no colour of pretence, either to thoſe who are liable in payment thereof, or for the negligence of ſuch as are or ſhall be appointed by his Majeſty to uplift the ſame; *Therefore*, our ſaid ſovereign Lord, with advice and conſent of his Majeſty's right truſty, familiar and well beloved couſins and counſellors J. M. of A. Lord privy ſeal of the foreſaid kingdom, W. D. of H. G. D. of G. J. E. of T. C. E. of B. G. V. of T. and W. V. of S. commiſſioners of his Majeſty's treaſury, comptrollery, and treaſury of his Majeſty's new augmentations, and of the remanent Lords and others of his Majeſty's exchequer of the foreſaid kingdom, his Majeſty's commiſſioners, ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal of the foreſaid kingdom of Scotland, commanding and requiring all feu and blench duties due to his Majeſty by any of his vaſſals and feuars, or others liable in payment thereof, which have not been uplifted and compted for in his Majeſty's exchequer, and are not rolled in the rentals of his Majeſty's rents, nor in uſe to be paid for the year 168— years, and precedings, to be uplifted and called in with all diligence, by his Majeſty's chamberlains, receivers, and others appointed, or who ſhall be appointed to uplift the ſame; and which feu and blench duties being recovered, his Majejeſty, now as then, and then as now, with advice and conſent foreſaid, gives, grants, aſſigns and diſpones the ſame to the ſaid J. E. of P. his heirs or aſſignees (ſecluding his executors); *with power* to the ſaid J. E. of P. and his foreſaids, to aſk, crave, intromit with, and uplift the foreſaid feu-duties, blench-duties, and other duties hereby gifted, aſſigned and diſponed for the year 168— years, and precedings, from the receivers preſently nominated by his Majeſty, or any other who ſhall be intruſted for that effect, and to diſpone thereupon at their pleaſure, without making any accompt thereof, further than as is after mentioned: *Requiring* hereby the receivers of his Majeſty's rents, preſent, or for the time being, to make payment of the ſame to the ſaid J. E. of P. and his foreſaids, whoſe receipt thereupon ſhall be a ſufficient exoneration to them: *Ordaining* alſo hereby the auditors of his Majeſty's accompts to allow the ſame, and the commiſſioners of his Majeſty's treaſury, and remanent Lords and other commiſſioners of his Majeſty's exchequer, to record theſe preſents in the books of exchequer: *Providing* always, likeas it is hereby provided and declared, that the ſaid J. E. of P. and his foreſaids, being ſatisfied and paid of the ſaid ſum of —— Sterling, free of all charges and expences, either by virtue of this gift, or by virtue of the former gift above mentioned of the wards and non-entries; then, and in that caſe, both this and the former gift ſhall from thenceforth become void and null: And to the end it may be known and inſtructed when the ſaid ſum ſhall be paid to him, his Majeſty hereby ordains and appoints a particular book or roll to be kept in exchequer, wherein is to be recorded what ſhall be paid to the ſaid Lord chancellor, by virtue of this preſent gift, of free money, to the effect it may be known when the foreſaid ſum is ſatisfied, as ſaid is: And in like manner, his Majeſty hereby requires all his miniſters and officers whom it concerns, to be aiding and aſſiſting to the ſaid E. of P. and his foreſaids, for the

ſpeedy

ſpeedy payment and inbringing of the ſums contained in this gift, until the ſaid ſum of —— Sterling, free of all charges and expences, as ſaid is, be made effectual, or paid to him or them; and his Majeſty hereby revokes and annuls ſo much of any former letters, orders or inſtructions directed to the Lords commiſſioners of the treaſury, or any other perſon or perſons whatſoever, as may militate againſt, or anyways be prejudicial to this his gift: And ordains the foreſaid letter to be farther extended, in the beſt form, with all clauſes needful. *Given at the court at Whitehall the 29th day of January* 1686, *and of his Majeſty's reign the ſecond year.*

COMMISSION, G. D. *of* B. *ratifying his former Commiſſion, with a new Commiſſion to receive and uplift the Non-entries of Lands holden Blench or Feu, with the Non-entry of Annualrents.*

OUR SOVEREIGN LORD, conſidering the good and faithful ſervice done and performed to his Highneſs by G. D. of B. in diſcovering and purſuing the caſualties under-written, whereof formerly ſmall benefit did ariſe to his Majeſty, and which by his induſtry are reduced to more in a ſhort time than his Highneſs could have expected; *Therefore*, ORDAINS a letter to be paſſed and expede under his Highneſs's privy ſeal, in due form, not only ratifying the former commiſſion granted by his Majeſty to the ſaid G. D. dated the ſixteenth day of Auguſt One thouſand ſix hundred and eighty-ſix years, for purſuing and uplifting all taxed ward duties, and non-entries of ſimple and taxed ward lands, with the reliefs thereof, and taxed avails of marriages, and the avails of marriages not taxed, whether of ſimple ward lands, or of lands holding feu with the marriages that hath fallen in his Highneſs's hands, or in the hands of his deceaſt brother king Charles the ſecond, of ever-bleſſed memory, for themſelves as kings, or as princes and ſtewards of Scotland, of all years and terms ſince the firſt day of Auguſt One thouſand ſix hundred and ſeventy-four years, and in time coming during the ſpace therein mentioned, which hath not been particularly compted for and paid, or gifted by his Highneſs or deceaſed brother before the date of the ſaid commiſſion, which his Highneſs is yet reſolved to continue, till the ſame be recalled by a writ under his royal hand; but alſo giving, granting and committing to the ſaid G. D. full power, warrant and commiſſion (which ſhall continue ay and while his Majeſty ſhall think fit to diſcharge the ſame) to proſecute, purſue, collect and uplift all non-entries of lands which have fallen in his Highneſs's hands, or in the hands of his ſaid deceaſed brother, of all years and terms bygone ſince the ſaid firſt day of Auguſt One thouſand ſix hundred and ſeventy-four years, by deceaſe (in the ſaid time) of any of his Highneſs's vaſſals, holding their lands of his Majeſty, or his ſaid deceaſed brother, as kings, princes or ſtewards of Scotland, in blench or feu-farm, together with the non-entry of all annualrents fallen due to his Highneſs during the ſaid ſpace, by deceaſe (in the ſaid time)

time) of any vaſſals holding annualrents of his Majeſty, or his ſaid deceaſed royal brother, as kings, princes, or ſtewards foreſaid, (the non-entry of lands or annualrents holden of his Highneſs by the forfeiture of the immediate vaſſals not being excepted) and in time coming during the ſpace above mentioned, and ay and while theſe preſents be diſcharged, as ſaid is, which hath not been particularly compted for and paid, or gifted by his Highneſs or his ſaid deceaſed royal brother, before the date hereof: *With full power* to the ſaid G. D. to call, follow and purſue therefor, before whatſoever judges competent, and to uſe all manner of legal diligence uſual and allowable for recovering payment thereof, and to grant diſcharges upon receipt of the ſame, which will be ſufficient to the receivers; and generally all and ſundry other things to exerce, which any other perſon commiſſioned by his Highneſs, to the effect above ſpecified, hath done, or lawfully may do; the ſaid G. D. being always holden to compt for what he intromitted with or recovered, by virtue of this or the former commiſſion, to the Lords commiſſioners of his Highneſs's treaſury, or to any others his Majeſty hath given or ſhall give orders for auditing the ſaid accompts; out of which his Majeſty, for the ſaid G. D. his farther encouragement in the proſecution hereof, hath allowed, and hereby allows the fifth part for his pains in uplifting the ſame, willing and requiring the ſaids Lords commiſſioners of his Majeſty's treaſury, or others to whom the ſaid G. D. is or ſhall be appointed to compt, to allow the ſame to him in the firſt end thereof, together with his neceſſary charges in recovering the ſame, the remainder always (after deduction of the ſaid fifth part and neceſſary expences foreſaid) being allowed to J. E. of P. Lord high chancellor, till he be paid of the ſum of —— Sterling, which his Highneſs has been graciouſly pleaſed to grant to him forth of the ſaid caſualties, and bygone concealed feu and blench duties, conform to his gifts thereof; and that the ſaid letter contain a clauſe, ratifying all diſcharges, not only of the caſualties fallen under the compaſs of the former commiſſion granted by the ſaid G. D. but alſo all former diſcharges ſince the date of the Lord chancellor's firſt gift of the wards, *&c.* granted by the ſaid G. D. as having warrant from him for uplifting of the non-entry duties contained in his commiſſion, which his Highneſs ordains to be compted for in manner foreſaid, and the ſaid G. D. to have the allowance above written; for all which, theſe preſents ſhall be a ſufficient warrant: And his Highneſs wills and requires the Lords of council and ſeſſion, Lords and others commiſſioners of exchequer, to direct forth letters of horning, for charging all perſons having intereſt, at the inſtance of the ſaid G. D. in proſecution hereof, and his Majeſty's advocate and ſolicitor to give their ready advice and concourſe herein, as they will be anſwerable. *Given at the court at Whitehall, the 8th day of November* 1687, *and of his Majeſty's reign the third year.*

GIFT *and Assignation of a Fine, in favours of* R. V. *of* P.

OUR SOVEREIGN LORD, considering the constant loyalty of his Majesty's right trusty and well-beloved cousin R. V. of P. and his zeal and affection to his Majesty's royal person and service upon all occasions; *Therefore*, our said Sovereign Lord, with advice and consent of his Majesty's right trusty, familiar and well-beloved cousins and counsellors J. E. of P. Lord high chancellor of his Majesty's kingdom of Scotland, J. M. of A. Lord privy seal, W. D. of H. G. D. of G. J. E. of T. C. E. of B. G. V. of T. and W. V. of S. commissioners of his Majesty's treasury, comptrollery, collectory, and treasury of his Majesty's new augmentations, and of the remanent Lords and others of his Majesty's exchequer of the said kingdom of Scotland, his Majesty's commissioners, ORDAINS a letter to be passed and expede under his Majesty's privy seal, in due form, to the said R. V. of P. his heirs or assignees, one or more, giving, granting, assigning and disponing, and by the tenor hereof, his Majesty, with advice and consent foresaid, gives, grants, assigns and disponeth to the said R. V. of P. and his foresaids, the sum of —— pounds Scots money, being the fine imposed by the commissioners of the privy council and justiciary upon A. B. of L. for his irregularities, and withdrawing from the ordinances, conform to a decreet pronounced by the saids commissioners at —— upon the — day of —— 16— years, as also the foresaid decreet itself, and all diligence of horning, poinding, arrestment, caption, adjudication, appriſing, and other legal diligence whatsoever that hath followed thereon, with all that shall follow upon the same, and that in so far as the foresaid decreet, and diligence done thereupon, may be extended against the said A. B. of L. for his irregularities; and which fine doth belong to his Majesty, as being ordained to be paid to his Majesty's cash-keeper, for his Majesty's use; *with power* to the said R. V. of P. and his foresaids, to ask, crave, receive, intromit with and uplift the foresaid sum of —— pounds, and to dispose thereupon at his pleasure, and to obtain decreets thereupon, and to prosecute and follow forth all actions already intented at the instance of his Majesty's cash-keeper, or any others upon his Majesty's account for the said sum, and obtain decreet therein, and generally all and sundry other things to do anent the premisses, and for recovering of the foresaid debt, that his Majesty, or his officers or ministers, might have done themselves before the granting of the foresaid gift and assignation; and that the foresaid letter be extended in the best form, with all clauses needful. *Given at the court at Whitehall the 2d day of February* 1686, *and of his Majesty's reign the second year.*

GIFT

GIFT *in favours of the Magiſtrates and Town-Council of the Burgh of* Elgin, *of four Pennies* Scots *of each Pint of Ale and drinking Beer, brewed, vended, and ſold within the ſaid Burgh, College and Old Mills, for ſeven Years, towards the building of a Harbour.*

OUR SOVEREIGN LORD, being exactly and well informed, that a ſafe and good harbour may be conveniently built and made at Elgin's-head, (a place not above three miles diſtant from his Majeſty's burgh of Elgin, within the kingdom of Scotland) and that the ſame will be very convenient and advantageous to his Majeſty's ſubjects, and all foreigners and ſtrangers who ſhall happen to repair thither with ſhips and barks, and that the ſame may be a mean to propagate the trade of that his Majeſty's burgh of Elgin, and that the building and perfecting of the ſaid harbour will ſtand and be a conſiderable expence, and that the magiſtrates and community of the ſaid burgh of Elgin are content and willing to cauſe build the ſaid harbour at Elgin's-head, and be at the trouble and expence thereof, upon his Majeſty's granting to them and their ſucceſſors, magiſtrates, council and community of the ſaid burgh of Elgin, an impoſition of four pennies Scots upon each pint of ale and drinking beer that ſhall happen to be brewed, vended, topped, and ſold within the ſaid burgh of Elgin, college, and Old Mills, but prejudice always of his Majeſty's exciſe, granted to him and his royal ſucceſſors by act of parliament, and annexed to the patrimony of the crown, and that for the ſpace of ſeven years; and his Majeſty being moſt willing and deſirous that the ſaid harbour be built at the place above named, for the uſe and behoof of all his Majeſty's ſubjects, and all foreigners and ſtrangers that ſhall happen to be employed in ſea-faring trade, whoſe occaſions may lead them to that road, and that the ſame will conduce much to the good and advantage, and promote that his Majeſty's burgh of Elgin: *Therefore*, his Majeſty, of his princely power and prerogative royal, with advice and conſent of his Majeſty's right truſty and well-beloved couſins and counſellors J. E. of P. *&c.* Lord high chancellor of Scotland, W. D. of Q. *&c.* preſident of his Majeſty's privy council, J. M. of A. *&c.* Lord privy ſeal, W. D. of H. *&c.* G. V. of T. Lord regiſter, and W. D. of C. lieutenant general of his forces within the ſaid kingdom, commiſſioners, and having power and place of his Majeſty's treaſury, comptrollery, and treaſury of new augmentations, and alſo with advice and conſent of the remanent Lords and others commiſſioners of his Majeſty's exchequer within the ſaid kingdom, ORDAINS a letter of gift to be paſſed and expede under the privy ſeal of that his ancient kingdom of Scotland, in favours of G. C. preſent provoſt of the ſaid burgh of Elgin, D. S. R. J. P. C. and J. W. preſent baillies there, J. F. preſent dean of guild, and J. W. preſent treaſurer of the ſaid burgh, for themſelves, and in name of the remanent council and community thereof, and to their ſucceſſors in the ſaids offices, for themſelves, and in name and behalf of the ſaid remanent council and community of the ſaid burgh; giving, granting, and diſponing, likeas his Majeſty, for him and his royal ſucceſſors (of his certain

knowledge and proper motive, out of his royal bounty and favour) gives, grants, and diſpones to the ſaid G. C. preſent provoſt of the ſaid burgh of Elgin, D. S. R. J. P. C. and J. W. preſent baillies there, J. F. preſent dean of guild, and J. W. preſent treaſurer of the ſaid burgh, and their ſucceſſors in the ſaids offices, for themſelves, and in name of the remanent council and community of the ſaid burgh, the foreſaid impoſition of four pennies Scots money upon each pint of ale and drinking beer, that ſhall happen to be brewed, vended, and ſold within the ſaid burgh of Elgin, College, and Old-Mills, and that for the ſpace of ſeven years next after the date hereof; with his Majeſty's royal and ſpecial command to all and ſundry perſons, brewers, vintners, tapſters, and ſellers of ale and drinking beer, within the ſaid burgh, College and Old-Mills, to readily anſwer, obey, and make timeous and thankful payment to the ſaid magiſtrates of the ſaid burgh, and their ſucceſſors in the ſaids offices, for themſelves, and in name of the remanent council and community of the ſaid burgh, and their factors and collector, and others to be appointed by them, of the ſaid impoſition of four pennies Scots upon each pint of ale and drinking beer to be brewed, vended, toped and ſold within the ſaids bounds, during the ſpace foreſaid: *With power* to the ſaids magiſtrates, and their ſucceſſors, (magiſtrates of the ſaid burgh) to call, conveen and purſue all perſons liable for the ſame before themſelves, and to take (if need beis) their oaths thereanent, decreets againſt them to pronounce, and the ſame to execution cauſe be put, and diſcharges thereof to grant, but prejudice always of his Majeſty's exciſe within the ſaid bounds, as is above mentioned; and that the ſaid letter of gift be further extended, with all clauſes requiſite and needful. *Given at the court at Windſor the 7th day of Auguſt* 1686, *and of his Majeſty's reign the 2d year.*

WARRANT *for a Gift of Eſcheat, in favours of* W. *late E. of* T. *being of his own moveable and perſonal Eſtate, fallen in his Majeſty's Hand by Forfeiture.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be paſſed and expede under the privy ſeal of his Majeſty's ancient kingdom of Scotland, in due form, *mentioning*, That foraſmuchas his Majeſty, conſidering that the ſeaſonable and ingenious diſcovery of the late horrid conſpiracy made by W. late E. of T. and his free and ingenuous confeſſion and acknowledgment of his acceſſion thereto, for which he threw himſelf on his Majeſty's mercy, was good and acceptable ſervice done to the crown and government; and alſo calling to mind, that the miniſters of ſtate had thereupon given him juſt ground to hope and expect his Majeſty's grace and favour (both as to life and fortune;) and he being already ſecured of his life, by a pardon and remiſſion granted by his Majeſty thereanent: *Therefore*, giving, granting, and diſponing, likeas his Majeſty, (as a further teſtimony of his princely goodneſs and bounty, of his proper motive and certain

certain knowledge) with the ſpecial advice and conſent of his Majeſty's right truſty and right well-beloved couſin and counſellor J. E. of P. Lord high chancellor of the ſaid kingdom, his Majeſty's right truſty and entirely beloved couſin and counſellor W. D. of Q. Lord preſident of his Majeſty's privy council, his Majeſty's right truſty and right well-beloved couſin and counſellor J. M. of A. Lord privy ſeal, his Majeſty's right truſty and well-beloved couſin and counſellor W. D. of H. his Majeſty's right truſty and well-beloved couſin and counſellor G. V. of T. and of his Majeſty's right truſty and well-beloved counſellor W. D. of C. lieutenant general of all his Majeſty's forces in Scotland, commiſſioners of his Majeſty's treaſury, comptrollery, and treaſury of new augmentations, and alſo with advice and conſent of the Lords and others of his Majeſty's exchequer of the ſaid kingdom, his Majeſty's commiſſioners, gives, grants, and diſpones to and in favours of the ſaid W. E. of T. his heirs and aſſignees whatſoever, *all and ſundry* goods, gear, bonds heritable and moveable, tacks, debts, and ſums of money, principal and annualrents bygone, mails, farms, and duties of lands, acts, contracts, actions, obligations, decreets, ſentences, aſſignations, reverſions, tacks, aſſedations, corns, cattle, horſe, nolt, ſheep, inſight, pleniſhing, ſtocking, jewels, gold, ſilver, coined and uncoined, and all other goods and gear, moveable and immoveable whatſoever, of whatſoever kind, nature or quality the ſame may be, together with all perſonal rights, obligations, minutes, contracts, ſecurities, and other perſonal eſtate whatſoever, which pertained of before to the ſaid W. E. of T. or wherein he had or might have right, title, or intereſt, and which are now fallen and become in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by the right and privilege of the crown, laws and practique of this kingdom, through the doom and ſentence of forfeiture given and pronounced againſt the ſaid late E. by the Lords commiſſioners of his Majeſty's juſticiary, upon the —— day of —— One thouſand ſix hundred and eighty years, for the crimes of treaſon and leſe Majeſty, contained in the libel and indictment raiſed and purſued againſt him thereanent: And for his further ſecurity anent the premiſſes, his Majeſty, with conſent foreſaid, has aſſigned, transferred and diſponed, and hereby aſſigns, transfers, and diſpones to and in favours of the ſaid W. late E. of T. and his foreſaids, the fore-named haill goods and gear, bonds heritable and moveable, debts and ſums of money, both principal and annualrents, with the haill rights and ſecurities granted thereanent, and others above diſponed, with all right, title, intereſt, and claim of right that his Majeſty had, hath, or can pretend thereto, by virtue of the ſaid decreet of forfeiture, or otherways, in time coming; and doth hereby ſurrogate and ſubſtitute the ſaid Earl, and his foreſaids, in his Majeſty's full right, title, and place of the haill premiſſes for ever: And his Majeſty, with conſent foreſaid, doth hereby declare, that the foreſaid gift and diſpoſition, conceived in general terms, as is above written, is and ſhall be as valid, effectual, and ſufficient, in favours of the ſaid late E. of T. and his foreſaids, to all intents and purpoſes, as if it contained a ſpecial enumeration of all the particular debts and ſums of money, heritable and moveable, and others above written, and the ſecurity which by any ſenſe or interpretation can be com-

prehended or fall under the general words above expreſſed, whereanent his Majeſty, for him and his foreſaids, with conſent above written, hath diſpenſed, and hereby diſpenſes for ever. *And laſtly*, his Majeſty, with conſent foreſaid, wills and ordains, that the above written letter of gift, and every word and clauſe therein contained, is and ſhall be as fully and amply extended, explained and interpreted in favours of the ſaid late E. of T. and his foreſaids, to the effect and intent above mentioned, as the words themſelves, and the true ſenſe and meaning thereof can poſſibly bear and admit: *With full power* to him and his foreſaids, to aſk, intromit with, and uptake all and ſundry the ſaids goods, gear, debts and ſums of money, moveable and immoveable, principal and annualrents, and others above aſſigned and diſponed, and thereupon to uſe and diſpoſe at his pleaſure, and (if need beis) to call and purſue therefor as accords, and to do every other thing elſe requiſite concerning the premiſſes that in ſuch caſes appertains; and that the ſaid letter be farther extended in ample form, with all clauſes needful. *Given at the court at Whitehall the 18th day of April 1686, and of his Majeſty's reign the 2d year.*

RATIFICATION *in favours of Sir* J. D. *of* S. *Knight and Baronet, Preſident of the Seſſion, of the Contract paſſed betwixt his Lordſhip and* P. T. *and* A. C. *his Spouſe, for printing the Acts of Sederunt, and Deciſions of the Lords of Seſſion, and index thereof, the Inſtitutions of the Law of* Scotland, *firſt and ſecond Parts, with the Form of Proceſs, with a Treatiſe containing four Inquiries concerning* human Knowledge, natural Theology, Morality *and* Phyſiology.

OUR SOVEREIGN LORD *ORDAINS* a letter to be paſſed under his Majeſty's privy ſeal, in due form, bearing, That whereas, Sir J. D. of S. preſident of the ſeſſion, hath obſerved and written the acts and deciſions of the Lords of ſeſſion ſince his Majeſty's happy reſtoration to this time, and hath alſo written the inſtitutions of the law of his ancient kingdom of Scotland; and his Majeſty being well ſatisfied with his pains and diligence therein, and knowing his long experience and knowledge of the laws and cuſtoms of that kingdom, and his conſtant affection and faithfulneſs to his Majeſty; and being confident of the great benefit that may ariſe to all his Majeſty's ſubjects of that his ancient kingdom, by publiſhing of the ſaids deciſions and inſtitutions, and being willing to give to the ſaid Sir J. all encouragement therein; *Therefore*, ratifying and approving the contract agreed upon betwixt the ſaid Sir J. and A. C. and P. T. merchant in Edinburgh, now her ſpouſe, having right to, and exercing the office of his Majeſty's printer in Scotland, for printing of the ſaids books, in all the heads, articles and clauſes therein contained, prohibiting all others to print the ſaids books for the ſpace of nineteen years, without the ſpecial leave of the ſaid S. J. his heirs and ſucceſſors, of which contract the tenor follows: At Edinburgh the

26th

26th day of March One thouſand ſix hundred and eighty-one years, it is agreed, contracted, and finally ended betwixt the parties following, that is to ſay, S. J. D. of S. knight and baronet, preſident of the ſeſſion, on the one part, and P. T. merchant burgeſs of Edinburgh, and A. C. now his ſpouſe, on the other part, as after follows, *viz.* The ſaid S. J. binds and obliges him, his heirs and ſucceſſors, to deliver to the ſaid P. and his ſaid ſpouſe, the ſeveral manuſcripts under-written, or copies thereof, to the effect the ſame may be printed in manner after mentioned, and that in due time, that the preſs be not hindered, nor the ſaid work delayed, *viz.* The acts of ſederunt, and deciſions of the Lords of ſeſſion, obſerved by the ſaid S. J. from the firſt of June One thouſand ſix hundred and ſixty-one years, till this time, by the ſpace of twenty years, together with the index thereof, the inſtitutions of the law of Scotland, the firſt and ſecond parts, with the form of proceſs before the Lords of ſeſſion, together with a treatiſe containing four inquiries concerning human knowledge, natural theology, morality and phyſiology: Likeas, the ſaid S. J. binds and obliges him and his foreſaids, not to give copies or warrants to print or reprint any of theſe ſaids books, to any other perſon or perſons, during the ſaid P. his ſaid ſpouſe and their aſſignees continuing and exercing the office of his Majeſty's printer; with power to them and their foreſaids to reprint the ſaids treatiſes, or any of them, as they ſhall think fit or convenient. And, upon the other part, the ſaid P. T. and A. C. his ſpouſe, and their ſucceſſors and aſſignees, bind and oblige them to print, or cauſe be printed, upon the letter called, *The Engliſh Roman*, conform to the printed ſheet ſubſcribed by both parties, of the date of theſe preſents, and ſhall begin the printing thereof immediately: And ſicklike, the ſaid P. his ſaid ſpouſe, and their foreſaids, bind and oblige them to print ſix ſheets thereof every week, ay and while the ſaids haill copies be perfected, the ſame not being impeded by the preſenting of the ſaids treatiſes, or copies thereof, or by correcting of the ſame when printed; and, if there ſhould be more than ſix ſheets thereof perfected weekly, then, and in that caſe, the ſaid S. J. obliges him and his foreſaids to cauſe the correctors to be furniſhed by him, to diſpatch the ſame, whenſoever the ſame ſhall come in their hands; and that, in the mean time, till the ſaids books be fully printed and completed, the ſaid P. his ſaid ſpouſe and their foreſaids, bind and oblige them to give out no duplicates of the ſaids treatiſes, or any part thereof, nor ſuffer any copies to be taken of the ſame, till it be reviſed by him and his foreſaids, or by any whom the ſaid S. J. ſhall appoint, and to amend the ſame accordingly: And to that effect, the ſaid P. his ſaid ſpouſe, and their foreſaids, bind and oblige them to keep the written copies, and printed ſchedules of the ſaids treatiſes under lock and key, in their own cuſtody, until the ſame be fully printed, and that under the pain of one hundred pounds Scots for each copy, to be paid by them and their foreſaids to the ſaid S. J. and his foreſaids, in caſe any written and printed copies of the foreſaid books, or any part thereof, be found out of their cuſtody, as ſaid is: Likeas, the ſaid P. his ſaid ſpouſe, and their foreſaids, bind and oblige them to deliver to the ſaid S. J. and his foreſaids, the number of twelve of every one of the ſaids

treatiſes,

treatiſes, well bound in leather, the one half thereof being gilded, and that ſo ſoon as the ſame are perfected, whenſoever he ſhall call for the ſame, under the pain of forty pounds Scots money, as the liquidate price thereof by conſent: And likewiſe the ſaid P. his ſaid ſpouſe, and their foreſaids, bind and oblige them to make uſe of the privilege granted to his Majeſty's printers, and not to permit any other perſon whatſoever to encroach upon the ſaid privilege granted to his Majeſty's printers, nor to ſuffer any other perſons within this kingdom, or printers therein, to make uſe of printers abroad to print or reprint the ſaids books, or any part thereof, or any ſtationer, merchant, or other perſon, to ſell, vend, or diſperſe the ſame ſo printed by others, without the ſpecial leave and conſent of both the ſaids parties contracters, and their foreſaids, in writ ſubſcribed by them; and alſo, that they ſhall not ſuffer any perſon or perſons whatſoever within this kingdom to print or reprint the ſaids books, or any of them, or any part of the ſame, or to ſell, vend or diſperſe them, and do hereby communicate the benefit of the penalties and confiſcations, that they ſhall procure upon the contraveners of the ſaid privilege in printing the ſaids books, or any part thereof, by any other than the ſaid P. his ſaid ſpouſe and their foreſaids, equally betwixt the ſaids parties contracters: And both parties bind and oblige them to perform and fulfil the premiſſes, each of them their own parts to others, under the pain of one thouſand merks Scots money, by and attour performance of the premiſſes: And for the more ſecurity, both the ſaids parties are content, and conſents that theſe preſents be inſert and regiſtered in the books of council and ſeſſion, or in any other judicatory books competent, to have the ſtrength of a decreet of either of the judges thereof interponed thereto, that letters of horning on ſix days, and other executorials neceſſary, may be directed hereupon, in form as effeirs. *Given at the court at* Whitehall *the* 11*th day of* April 1681, *and of his Majeſty's reign the* 33*d year.*

SIGNATURE, *containing a Tack of the Lands of* J. &c. *with the Teinds fallen in his Majeſty's Hands,* ratione forisfacturæ, *in favours of* R. J. *Relict of Mr.* R. B. *late of* J. *(the perſon forfeited) for nine nineteen Years and Crops, for Payment of eighty Merks yearly, and former Ground-duties and public Burdens, containing abſolute Warrandice; the granting whereof evinces, that Bounty and Clemency is truly lodged in Sovereignty.*

OUR SOVEREIGN LORD, with advice and conſent of his Majeſty's right truſty, familiar and well beloved couſins and counſellors J. E. of P. Lord high chancellor of his Majeſty's ancient kingdom of Scotland, J. M. of A. Lord privy ſeal, W. D. of H. G. V. of T. and of his Majeſty's right truſty and familiar counſellor lieutenant-general W. D. of C. commander of all his Majeſty's forces within the ſaid kingdom, commiſſioners of his Majeſty's treaſury, comptrollery, collectory, and treaſury of his Majeſty's new augmentations,

tions, and of the remanent Lords and others commiſſioners of his Majeſty's exchequer of the foreſaid kingdom, ORDAINS a letter of tack to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, whereby his Majeſty ſets, and in tack and aſſedation for the mail and duty under written, lets to his Majeſty's lovit R. J. relict of umquhil M. R. B. late of —— her heirs, aſſignees, and ſubtenants whatſoever, all and haill the lands of —— with manor-place, houſes, biggings, yards, orchards, mill, dovecoat, new mains and old mains thereof, and that room called the —— with moſſes, muirs, meadows, woods, fiſhings, parts, pendicles, and pertinents of the ſame, lying within the parochin and ſheriffdom of —— with the haill eaſements and righteous pertinents pertaining and belonging thereto, with the haill teinds parſonage and vicarage of the ſame, as the ſame were formerly poſſeſſed by her ſaid deceaſed huſband, and that for the haill ſpace, years and crops of nine nineteen years, and crops next and immediately following her entry thereto, which is hereby declared to have been and begun at the term of Whitſunday laſt bypaſt, and to be peaceably bruiked, enjoyed, uplifted and intromitted with by her and her forefaids, till the foreſaid ſpace of nine nineteen years be fully and completely outrun and expired, but interval or break of terms; with power to them, or their factors or chamberlains in their name, to gather, uplift, intromit with, and diſpoſe upon the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands and others above rehearſed, and to occupy, poſſeſs, labour and manure the haill lands, houſes, and others pertaining thereto, and to lead and intromit with the teind-ſheaves, teind-duties, and other teinds belonging thereto, freely, quietly, well and in peace, but any ſtop, trouble or impediment therein, and to ſet and raiſe the ſame, output and input the tenants thereof, call, follow forth, and purſue for the haill rents, teinds or caſualties thereof, or belonging thereto, and to apply the ſame to their own proper uſe, and all and ſundry other things to do and exerce thereanent, neceſſary and uſual to be done, or which his Majeſty, or his royal ſucceſſors might do themſelves, and with all and ſundry other commodities pertaining and belonging thereto; *paying therefor yearly* the ſaid R. J. and her foreſaids, to our ſaid Sovereign Lord and his Majeſty's ſucceſſors, their treaſurers, commiſſioners of treaſury, or receivers of their rents in their names, the ſum of eighty merks money of this realm of Scotland, of mail and tack-duty allenarly at Whitſunday yearly, beginning the firſt term's payment thereof at Whitſunday, in the year One thouſand ſix hundred and eighty-ſeven years, and ſo forth yearly thereafter at the ſaid term, during the haill ſpace and years of this preſent tack, and likewiſe paying to his Majeſty and his royal ſucceſſors, the feu and blench duties that were formerly payable forth of the lands and others above rehearſed by her deceaſed huſband, and to the miniſters ſerving the cure at the kirk of —— and their ſucceſſors, the teind-duties or ſtipends which were formerly in uſe to be paid forth of the teinds thereof, and relieving his Majeſty, during the ſpace of this tack, of all duties payable forth of the ſaids teinds, and likewiſe paying their proportion of the ſupply payable to his Majeſty, according to the valuation of the lands above written, termly, as it falls due, and that for

all

all other duty, which his Majeſty or his royal ſucceſſors can aſk or claim for the ſame, during the ſpace foreſaid of the ſaid tack: And his Majeſty binds and obliges him, his heirs and royal ſucceſſors, to warrant and defend the foreſaid tack, during the ſpace thereof above ſpecified, at all hands, and againſt all deadly; and that the ſaid letter of tack be fully extended in due form; *with command* therein to all and ſundry the farmers, tenants, tackſmen, and others addebted, and in uſe of payment of the mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands, and others above mentioned, to anſwer, obey, and make payment to the ſaid R. J. and her foreſaids, (and to none others) of the ſame, during the ſpace above written of this tack; and diſcharging hereby the Lords commiſſioners of his Majeſty's treaſury and exchequer, and all others collectors of his Majeſty's rents, to trouble or moleſt her, or her foreſaids therein, during the ſaid ſpace. *Given at the court at* Windſor *the* 30*th day of* July 1686, *and of his Majeſty's reign the ſecond year.*

SIGNATURE *and* GIFT *of ſome Money that was due to the late A. in favours of Sir* J. C. *of* L. *Knight, and who was a Creditor of his.*

OUR SOVEREIGN LORD, conſidering that although his Majeſty's deareſt brother king Charles the ſecond, of ever-bleſſed memory, by a charter and gift under his Majeſty's great ſeal, of the date the ſeventeenth day of March One thouſand ſix hundred and eighty-two years, diſponed to Sir A. G. of P. (in whoſe place Sir D. T. advocate was afterwards ſurrogate) Sir W. P. one of the clerks of his Majeſty's privy council, and G. M. one of the clerks of exchequer, as truſtees for the behoof of the creditors of the E. of A. and late M. of A. the lands and eſtate therein mentioned, which belonged to the ſaid A. C. late E. of A. and fell in his Majeſty's hands by his forfeiture; the Lords of his Majeſty's exchequer are ordained to give to the ſaids truſtees, gifts of all bonds, obligations, ſums of money, and debts that belonged to the ſaid late E. of A. and fell likewiſe in his Majeſty's hands by his forfeiture (the debts due by the Laird of G. and D. M. of M. being noways comprehended); *Yet nevertheleſs*, that the debt after mentioned, which was due to the ſaid A. late E. of A. and fell in his Majeſty's hands by his forfeiture, is not given to the truſtees, nor as yet to any other; and the ſame being a latent debt, and being diſcovered by his Majeſty's lovit Sir J. C. of L. knight, a creditor to the ſaid late E. of A. it is juſt that he ſhould be preferred thereto, and have the ſame conveyed and aſſigned to him in ſatisfaction of his juſt debt *pro tanto: And therefore*, our ſaid Sovereign Lord, with advice and conſent of his Majeſty's right truſty, familiar, and well-beloved couſins and counſellors J. E. of P. Lord high chancellor of his ancient kingdom of Scotland, J. M. of A. Lord privy ſeal, W. D. of H. G. V. of T. and of his Majeſty's right truſty and well beloved counſellor lieutenant-general W. D. of C. commiſſioners of his Majeſty's treaſury, comptrollery, collectory, and treaſury of his Majeſty's

Majeſty's new augmentations, and of the remanent Lords and others commiſſioners of his Majeſty's exchequer of the ſaid kingdom, his Majeſty's commiſſioners, ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal of the foreſaid kingdom, in due form, giving, granting, aſſigning and transferring, and, by the tenor hereof, his Majeſty, with advice and conſent foreſaid, gives, grants, aſſigns and transfers to the ſaid Sir J. C. his heirs and aſſignees whatſoever, the ſum of —— merks Scots money, contained in a bond granted by the deceaſed J. C. of F. and his cautioners to the deceaſed H. of H. of the date the — day of — 16— years, and in a bond of corroboration thereof granted by J. C. of G. ſon to the ſaid umquhil J. C. of F. to umquhil H. of H. with the annualrents of the ſaid ſum of —— merks, of all years and terms bygone reſting unpaid, and in time coming during the not payment of the ſame, with the penalties contained therein, and in an aſſignation of the foreſaid bonds and debt made by the ſaid — H. of H. or by his tutors, or curators, or factors, or others having power to grant the ſame, in favours of the ſaid A. late E. of A. or of ſome other perſon for his behoof, or in an aſſignation blank as to the aſſignee's name, all which belonged to, and was truly for the behoof of the ſaid late E. of A. together with the bond and aſſignation itſelf, and all that has followed or may follow thereupon; which debt belonged to the ſaid A. late E. of A. and fell and became in his Majeſty's hands, and at his gift and diſpoſition, by reaſon of the forfeiture of the ſaid late E. of A. for the crimes of treaſon and leſe majeſty, contained in the decreet and ſentence of forfeiture pronounced againſt him by the Lord juſtice-general, juſtice-clerk, and commiſſioners of juſticiary, upon the — day of — in the year 16— years, and by eſcheat laws and practique of this realm, and privilege of his Majeſty's crown, together with all right whatſoever that the ſaid late E. of A. had to the foreſaid debt, and which now his Majeſty has or may have by the ſaid forfeiture, or otherwiſe thereto; *With power* to the ſaid Sir J. C. and his foreſaids, to call and purſue for exhibition and delivery to them of the foreſaid bond and aſſignation, and writs relative thereto; and likewiſe, to aſk, crave, receive, intromit with, and uplift the ſums of money, principal, annualrent and expences above mentioned, at their own hands, and to diſpoſe thereupon at their pleaſure, and to grant diſcharges in their own names upon the receipt thereof in haill or in part, and, if need be, to call and purſue therefor, decreets of declarator general and ſpecial thereupon to obtain, and cauſe put the ſame to due execution, and generally to do every other thing requiſite and neceſſary for recovering payment of the foreſaid debt: And that the foreſaid letter be farther extended in the beſt form, with all clauſes needful. *Given at the court at Windſor the 21ſt day of Auguſt 1686, and of his Majeſty's reign the ſecond year.*

GIFT *by his Majeſty, as King, of the Non-entry of ſome Perſons, Non-entry and Marriage of another Perſon, and of a Ward, Non-entry, Relief and Marriage of a third Perſon; the cauſe whereof was, their Predeceſſors being Creditors to the Heritor, by Appriſing or Adjudication, were infeft in a Land holden Simple-Ward, and a Perſon having a right of Wadſet upon theſe Lands did (for his better Security) obtain this Gift, in order to ſerve, retour and infeft his Conſtituents Heirs, and thereby make up his Right.*

OUR SOVEREIGN LORD, taking into his conſideration that the deceaſed P. D. of S. and the deceaſed Mr. C. G. brother-german to the late L. of G. being lawful creditors to R. M. now of P. and to his deceaſed father and grandfather, in ſeveral ſums of money, for themſelves, and otherways having right, did, for their farther ſecurity, obtain themſelves infeft, by virtue of appriſings and adjudications, in the ſaids L. of P. their eſtate, or ſome part thereof holden ward of his Majeſty and royal progenitors, and that by the ſaid P. D. his deceaſe, thoſe lands and others wherein he ſtood infeft, are fallen in his hands by non-entry, and that by the deceaſe of Mr. R. G. brother to the ſaid M. C. and who was heir ſerved, retoured and infeft, as heir to him in thoſe lands, and others of the ſaid eſtate wherein the ſaid M. C. was infeft, have alſo fallen and become in his Majeſty's hands, upon the ſaid M. C. his deceaſe by non-entry, and that by deceaſe of R. G. eldeſt lawful ſon to the ſaid M. R. and minority of —— G. eldeſt lawful ſon and apparent heir to the ſaid deceaſed R. and grandchild and apparent heir to the ſaid M. R. the ſame have fallen in his Majeſty's hands by ward and non-entry; and his Majeſty being unwilling to take the leaſt advantage of any lawful creditor upon ſuch an account, and being now informed that A. G. of D. has acquired right by progreſs to the ſaids diligences, againſt the ſaid eſtate of P. holden ward of his Majeſty, as ſaid is; and his Majeſty being well informed of the ſaid A. G. of D. his loyalty and good affection to him and his ſervice; *Therefore*, his Majeſty, with advice and conſent of the Lords commiſſioners of his Highneſs's treaſury and exchequer of his ancient kingdom of Scotland, ORDAINS a letter of gift to be made and paſſed under his Majeſty's privy ſeal of the ſaid kingdom, in due and competent form, giving, granting and diſponing, likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants and diſpones to and in favours of the ſaid A. G. of D. his heirs and aſſignees one or more, the ward and non-entry, mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands of —— mills and pertinents, belonging to the ſaids lairds of P. or one or other of them, and wherein the ſaid P. D. of S. M. C. and Mr. R. G. or the ſaid R. G. ſon to the ſaid M. R. died laſt veſt and ſeiſed, holden of his Majeſty or his moſt royal progenitors, in manner foreſaid, and fallen and become in his hands by reaſon of either ward or non-entry, or both, and that of all years and terms bygone, ſince all or either of the forenamed perſons their deceaſes, and yearly and termly in all time coming, ay and while the lawful entry of the righteous heir or heirs of the forenamed perſons thereto,

thereto, with the relief of the ſaids wards and non-entries, together alſo with the marriage of the ſaid deceaſed R. G. and of the ſaid —— G. ſon to the ſaid R. and failzieing of him by deceaſe, of the next heir or heirs preſent or future, that ſhall happen to ſucceed in the ſaids lands and eſtate holden ward in manner foreſaid, and haill avails thereof, and all benefit and caſualty that may thereby accreſce to his Majeſty, and all action, purſuit and inſtance competent, or that may be competent in the premiſſes, for now and ever: *With full power* to the ſaid A. G. and his heirs and aſſignees above ſpecified, to intromit with, uplift, aſk, crave and receive the foreſaids ward and non-entry duties and caſualties above mentioned, with the ſaids relief and marriages, and haill benefits and caſualties thereof, and to call and purſue therefor before any judge or judges competent, as accords, decreets of general and ſpecial declarators, and others neceſſary in the premiſſes, to obtain and recover, and the ſame to due and lawful execution cauſe be put, compone, tranſact and agree thereanent, and to ſet and raiſe tenants, uſe warning, proſecute removing, and to do what elſe his Majeſty, or any other donatar, has done, does, or may do, by the laws and practique of the ſaid kingdom, at any time before the granting of theſe preſents, and that freely, quietly, well and in peace, but any revocation, *&c.* And that the ſaid letter be extended in moſt full and ample form, with all clauſes needful. *Given at*

GIFT *of Penſion to* J. E. *of* A. *one of the Gentlemen of his Majeſty's Bed-Chamber.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be paſſed under his Majeſty's privy ſeal of his ancient kingdom of Scotland, making mention, That his Majeſty, taking into his royal conſideration the many great, eminent and faithful ſervices done and performed to his Majeſty, and to his deareſt royal father, of glorious memory, by his Majeſty's right truſty and right well-beloved couſins and counſellors the deceaſed J. and W. D. of H. grandfather and granduncle to his Majeſty's right truſty and well-beloved couſin J. E. of A. one of the gentlemen of his Majeſty's bed-chamber, and that in the moſt hard and difficult times, to the loſs of their lives and fortunes, and the firm reſolutions the ſaid J. E. of A. hath to trace their ſteps, and follow their example, and the ardent affection he hath towards his Majeſty's royal perſon and ſervice, and the pains, charges and expences he hath been at in attending thereupon theſe ſeveral years bypaſt, and his great deſires to continue therein; for whoſe encouragement thereto, and for the faithful ſervices done and to be done and performed to his Majeſty by his ſaid right truſty and well beloved couſin J. E. of A. and as a mark of his Majeſty's royal favour, kindneſs and bounty to him; *Therefore*, to have given, granted and diſponed, likeas his Majeſty, by theſe preſents, with advice and conſent of the Lord treaſurer-principal, treaſurer-depute, and remanent Lords and others of his Majeſty's exchequer of his ſaid kingdom,

gives, grants and diſpones to the ſaid J. E. of A. a yearly penſion of five hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday, in this preſent year of God One thouſand ſix hundred and eighty-two, and ſo forth, to continue yearly and termly thereafter during his Majeſty's pleaſure only; commanding hereby his Majeſty's treaſurer-principal, treaſurer-depute, his caſh-keeper, and all the collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever of his Majeſty's ſaid kingdom for the time being, readily to anſwer and pay the foreſaid penſion, in manner above mentioned, to his Majeſty's ſaid right truſty and well beloved couſin J. E. of A. whoſe receipt for the ſame, in whole or in part, ſhall be to them, and to the Lords and others auditors of their accompts for allowing the ſame, a ſufficient warrant: And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Windſor-Caſtle the 20th day of June 1682, and of his Majeſty's reign the 34th year.*

WARRANT *for a Gift of a yearly Fee and Salary of 900 l. Sterling, to* J. *Marquis of* Athole, *as Lord Privy Seal, which is now annexed to the Office, and declared to be over and above his former Penſions.*

OUR SOVEREIGN LORD taking into his royal conſideration the great and eminent ſervices done and performed to his Majeſty, by his right truſty and well beloved couſin and counſellor J. M. of A. *&c.* Lord privy ſeal of his Majeſty's ancient kingdom of Scotland, not only in that office, but likewiſe in all other offices, employments and capacities, wherein his Majeſty for many years was graciouſly pleaſed to employ and confer truſt upon him, and with what zeal, duty and affection he, (to the expoſing of life and fortune to all hazards,) has loyally aſſerted the royal prerogative, juſt and incontrovertible privileges of his Majeſty's crown and dignities; and that his Majeſty, through the intire confidence repoſed in him, not only by a patent under his Majeſty's great ſeal of his ancient kingdom, created and appointed the ſaid J. M. of A. Lord privy ſeal therein, but alſo, by a letter under the privy ſeal of the ſaid kingdom, of the date the 21ſt day of May 1675 years, conferred upon him as Lord privy ſeal, a penſion of four hundred pounds Sterling yearly: And his Majeſty likewiſe conſidering the great attendance and expence he will be expoſed to in his Majeſty's affairs for the future, and being graciouſly reſolved to confer an additional mark of his royal favour and bounty upon him; *Therefore*, ORDAINS a letter to be made and paſſed under the privy ſeal of the ſaid kingdom, in due and competent form, giving, granting and diſponing, likeas, his Majeſty, by theſe preſents, with advice and conſent of the Lord high treaſurer, treaſurer-depute, and remanent Lords and others of his Majeſty's exchequer of his ſaid ancient

ancient kingdom, gives, grants and diſpones to the ſaid J. M. of A. as Lord privy ſeal, the ſaid ſum of four hundred pounds Sterling, with the ſum of five hundred pounds more, making up in the whole the ſum of nine hundred pounds Sterling, to be paid unto him as Lord privy ſeal, at two terms yearly, Whitſunday and Martinmas, by equal portions, out of the firſt and readieſt of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever, ordinary and extraordinary, within his Majeſty's ancient kingdom aforeſaid, whereof the firſt term's payment is to begin at Whitſunday, in this inſtant year of God One thouſand ſix hundred and eighty-two, (for the term immediately preceding,) and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure allenarly, and that in name of a conſtant fee and ſalary to the ſaid J. M. of A. as Lord privy ſeal, which, by his Majeſty, is of his certain knowledge and proper motive hereby annexed as a fee and ſalary to the ſaid office, in all time coming; *Commanding* hereby his Majeſty's treaſurer-principal, treaſurer-depute, caſh-keeper, and all collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever, ordinary and extraordinary within the ſaid kingdom for the time being, readily to anſwer and pay the foreſaid fee and ſalary of nine hundred pounds Sterling to the ſaid J. M. of A. during the ſaid ſpace, whoſe receipt for the ſame, in whole or in part, ſhall be to them a ſufficient warrant; and hereby commands and allows the Lords and others auditors of the ſaid treaſurer-principal and depute, caſh-keeper, collectors and receivers of their accompts, to allow and diſcompt the ſaid payment from time to time, and for which allowance theſe preſents ſhall alſo be to them a ſufficient warrant: And his Majeſty hereby wills and declares, That the ſaid fee and ſalary is, and ſhall be over and above a letter of penſion of five hundred pounds Sterling yearly, conferred by his Majeſty upon the ſaid M. of A. of the date firſt day of May this inſtant year, which is alſo hereby ratified in all points. *And laſtly*, His Majeſty ordains the ſaid letter to be regiſtered at the writer to the privy ſeal his office, and to be further extended in the moſt ample and beſt form, with all clauſes needful, by the director to the chancellary, or his deputes, and to be expeded not only under the privy ſeal, but alſo under the great ſeal, which his Majeſty ordains the Lord high chancellor, or his deputes, to append thereto; for all which theſe preſents ſhall be to them a ſufficient warrant: And becauſe the ſaid J. M. of A. is Lord privy ſeal for the time, his Majeſty appoints theſe preſents to be kept at the great ſeal, as the warrant of both ſeals, without the neceſſity of paſſing any other of the ſeals. *Given at the court at Windſor Caſtle the 5th day of June* 1682, *and of his Majeſty's reign the* 34*th year.*

WARRANT

WARRANT *for a Gift of the Office of being his Majeſty's Maſter-Bower, in favours of* J. M. *Bower, Burgeſs of* Edinburgh.

OUR SOVEREIGN LORD, underſtanding that Andrew Forreſter bower, burgeſs of Edinburgh, and one of the captains thereof, and his Majeſty's maſter-bower and armourer within his ancient kingdom of Scotland, is now deceaſed, and therethrough his ſaid office becomes vacant in his Highneſs's hands, and at his royal gift and diſpoſition; and being likewiſe informed of the abilities and qualifications of J. M. bower, burgeſs of the ſaid city of Edinburgh, for exercing the ſaid office, and of his loyalty and affection to his Majeſty's government, ORDAINS a patent or letter of gift to be made and paſſed under his Highneſs's privy ſeal of the ſaid ancient kingdom, in due and competent form, making, conſtituting and ordaining, likeas, his Majeſty, by theſe preſents, (with advice and conſent of the Lords of his Highneſs's treaſury and exchequer of the ſaid kingdom, his Majeſty's commiſſioners,) makes, conſtitutes and ordains the ſaid J. M. during his lifetime, his Majeſty's bower and maſter-armourer within his Highneſs's ancient kingdom aforeſaid, and particularly within his Highneſs's caſtles of Edinburgh, Stirling, Dumbarton, palace of Holy-rood-houſe, and all others his Highneſs's cities, towns, palaces, houſes, forts and ſtrengths whatſomever, belonging to his Majeſty within the ſaid kingdom; and giving, granting and diſponing, likeas, his Majeſty, by theſe preſents, (with conſent foreſaid,) gives, grants and diſpones to him during the ſaid ſpace, the office thereof, with the ſole liberty and privilege of making his Highneſs's bows, arrows, clubs, lances, ſpears, pikes, halberts, upſets for cannons, ſpunge-heads, ſtocks of muſkets, guns, tents, and all other manner of work, furniture, and neceſſaries belonging to the ſaid bower-trade and armourary, and fit for his Highneſs's uſe and ſervices; together with all other privileges, freedoms, immunities, commodities and caſualties belonging, and known and accuſtomed in any manner of way, to belong and appertain to the ſaid office: *With full power* to the ſaid J. M. during the ſaid ſpace, by himſelf or depute, (for whom he is to be anſwerable,) to exerce the ſaid office of his Majeſty's maſter-bower and armourer within the ſaid ancient kingdom, and particularly within his Highneſs's palaces, forts and ſtrengths aforeſaid, and to uplift and enjoy all fees, benefits, commodities, profits and caſualties thereof whatſomever, and to apply the ſame for his own uſe, and to poſſeſs, bruik and enjoy all privileges, dignities and liberties whatſomever, belonging and accuſtomed to belong, and that may be known hereafter to appertain and belong thereto any manner of way, ſicklike, and as fully and freely in all reſpects, as the ſaid deceaſed A. F. or any others his predeceſſors in the ſaid office formerly uſed and enjoyed the ſame: *And ſicklike*, his Majeſty, (for the ſaid J. M. his uſing, exercing and diſcharging the ſaid office, and attending thereupon, and for the good, ready and thankful ſervice to be done by himſelf or depute, as ſaid is, therein upon all occaſions) giving and granting, likeas, his Highneſs, with conſent foreſaid, hereby gives and grants

to

to the ſaid J. M. during the ſaid ſpace, a monthly wage and fee of twenty pounds uſuál money of the ſaid kingdom, to be paid to him monthly during the ſaid ſpace, together alſo with an honeſt ſuit of clothes yearly during the ſame ſpace, to be anſwered, obeyed, and paid to him by the Lords of his Highneſs's treaſury, his Majeſty's treaſurer, principal and deputes for the time, or either of them, and under receivers of his Highneſs's rents, preſent and to come, out of the firſt and readieſt of his Highneſs's rents and caſualties of the ſaid ancient kingdom, beginning the firſt month's payment of the ſaid fee, upon the firſt Wedneſday of —— 16— years, and ſo forth monthly thereafter, upon the firſt Wedneſday of each month during the ſaid ſpace, and the firſt year's payment of the ſaid ſuit of clothes, upon the firſt Wedneſday of the month of —— the ſaid year, and ſo forth yearly thereafter during the ſpace aforeſaid: *Commanding* hereby the Lords of his Majeſty's treaſury, treaſurers for the time, principals and deputes, and either of them, and under receivers of his Highneſs's rents, preſent and to come, to readily anſwer, and to make good and thankful payment to the ſaid J. M. of the ſaid monthly wages and fee, upon the ſaid firſt Wedneſday of every month, and of the ſaid ſuit of clothes yearly, during his ſaid lifetime; and alſo commanding the auditors of his Majeſty's accompts in exchequer to defalcate, allow and defaze the ſame to them in their accompts, upon production before them of the ſaid letter of gift, which his Highneſs appoints to be regiſtered in the rolls of exchequer, as uſe is, and for which theſe preſents ſhall be to all of them a ſufficient warrant. And foraſmuch as, by ſeveral acts of parliament, and ſecret council of the ſaid kingdom, but particularly by the two hundred ſeventy and fifth act, of the fifteenth parliament of King James the ſixth, of ever-bleſſed memory, thoſe who are employed in his Majeſty's ſervice, as one of each occupation and trade, are exempted from bearing any burden, watching or warding within burgh with the reſt of the neighbours; *Therefore*, his Majeſty, with conſent foreſaid, wills and declares, that the ſaid J. M. during his ſaid lifetime, ſhall have and enjoy the benefit of the ſaid act of parliament, and of all other acts of parliament and council whatſomever, conceived in favours of thoſe who are employed in his Highneſs's ſervice; and hereby expreſly diſcharges all other perſons during the ſaid ſpace, to preſume to exerce the ſaid office, or any part thereof, directly or indirectly, and in leſs or more, as they will be anſwerable to his Majeſty and his Highneſs's privy council, to whom his Highneſs hereby expreſly recommends the ſeeing of this preſent gift, in all its tenor and contents, put in due execution from time to time, ſo as the ſaid J. M. during his ſaid lifetime, may fully and amply enjoy the ſame, freely, quietly, well and in peace, but any revocation, obſtacle, impediment, encroachment, or againcalling whatſomever; and revokes all former gifts, (if any be) granted to any other perſon or perſons, of the ſaid office, privilege, benefit and caſualties thereof, at any time heretofore; and that the ſaid gift be extended in moſt ample form, with all clauſes needful. *Given at*

SIGNATURE

SIGNATURE *of Legitimation in favours of a perſon born Baſtard.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here inſert the conſents of the exchequer according to the conſtitution for the time, and then ſay)* ORDAINS a letter of legitimation to be made and paſſed under his Majeſty's privy ſeal of the ſaid ancient kingdom, in due and competent form, giving and granting, likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives and grants to E. H. relict of the deceaſed J. H. chamberlain of K. baſtard, natural daughter to M. H. ſervitor to the D. of H. procreate betwixt him and J. F. full power, faculty and warrant, during all the days of her lifetime, whether in *liege pouſtie* and perfect health, or in ſickneſs and death-bed, yea, alſo in *ipſo articulo mortis*, freely to give and diſpone all her goods and gear whatſoever, as well moveable as immoveable, already pertaining and belonging to her, or that in any time coming ſhall happen to belong and be acquired by her, and that to and in favours of any perſon or perſons whatſomever ſhe pleaſes, and as to her ſhall ſeem expedient; and likewiſe to make a latter will and teſtament, and thereby, or by aſſignation, or otherwiſe, to diſpoſe upon her eſtate, preſent and to come, and legate the ſame at pleaſure, notwithſtanding of baſtardy, wherein ſhe was procreate and born, and notwithſtanding of his Majeſty's privilege by law of the eſcheats of baſtards: *And in like manner*, his Majeſty, with conſent foreſaid, ſtatutes, wills, and declares, that it ſhall be lawful to the ſaid E. H. to make and exerce all lawful facts and deeds, in judgment, or outwith the ſame, and to bruik and enjoy all other privileges, offices, honours, dignities, lands, poſſeſſions, and others whatſoever, ſicklike and as fully and freely in all reſpects, and to all intents and purpoſes, as if ſhe had been procreate and born in lawful marriage and wedlock, and (6) notwithſtanding of the conſtant practique of this kingdom, and inherent privilege of his Highneſs's crown, in relation to the eſcheats of baſtardy, and notwithſtanding of whatſoever other laws, common, civil or municipal, and acts of parliament of this realm made, or to be made thereanent, which his Majeſty, for his Highneſs and his royal ſucceſſors, with conſent foreſaid, by theſe preſents, renounces, or, in her option, gives, grants, and diſpones in her favours, with all action, purſuit and inſtance, competent, or that may be competent to his Majeſty, or his foreſaids, thereupon for ever, in all time coming, and that freely, quietly, well and in peace, but any revocation, contradiction, obſtacle, or again calling whatſoever; and that the ſaid letter of legitimation be extended in moſt ample form, with all clauſes needful. *Given at*

Some writers inſert at the figure (6) *And that it ſhall be lawful to thoſe deſcended of her body, to ſerve heir to her, both in general and ſpecial, and to be retoured and inſeſt accordingly*; and then follow forth the ſtile.

WARRANT

WARRANT *for a Gift of the Office of one of his Majesty's ordinary Trumpeters in* Scotland, *to* J. S. *one of the Trumpeters in the Life-guard.*

OUR SOVEREIGN LORD, understanding that the place and office of one of the ordinary trumpeters within his Majesty's realm of Scotland, is now vacant in his Majesty's hands, and at his gift and disposition, through the decease of J. F. younger, late possessor thereof: *Therefore*, his Majesty ORDAINS a letter to be made and passed under the privy seal of his ancient kingdom of Scotland, making, constituting, and ordaining, likeas his Majesty (with advice and consent of his right trusty and right well-beloved cousin and counsellor J. E. of P. Lord high chancellor, his right trusty and entirely beloved cousin and counsellor W. D. of Q. Lord president of the privy council, his right trusty and right well-beloved cousin and counsellor J. M. of A. Lord keeper of the privy seal, his right trusty and entirely beloved cousin and counsellor W. D. of H. his right trusty and well-beloved cousin and counsellor G. V. of T. Lord register, and of his Majesty's right trusty and right well-beloved cousin and counsellor W. D. of C. lieutenant general of all his Majesty's forces within his said kingdom, Lords commissioners of his Majesty's treasury, and also with advice and consent of the rest of the Lords commissioners of exchequer of the said kingdom) hereby makes, constitutes and ordains his Majesty's lovit J. S. (one of his Majesty's trumpeters to his troop of guard, under command of the Lord Livingston) to be one of the number of his Majesty's ordinary trumpeters within the said kingdom of Scotland, during the whole space of his lifetime; and his Majesty has given and granted, likeas by the tenor hereof, gives and grants to the said J. S. the office thereof, during the space foresaid, with all fees, liveries, casualties, burials, liberties, privileges and immunities, ordinary and extraordinary pertaining thereto, and possessed of before by the said deceased J. F. *With power* to him to use and exerce the said office, sicklike and as freely in all respects as the said deceased J. F. had the same of before, or as any other of his Majesty's trumpeters, possessors of the said office; and his Majesty has made, likeas by these presents, makes him equal in degrees and estate with them in all things pertaining to the said office, during the space above written: *Commanding* the saids Lords commissioners of the treasury, and the receivers of his Majesty's rents within the said kingdom of Scotland, readily to answer, obey, and make thankful payment of the said ordinary fees and liveries in all time coming, to the said J. S. or his factor in his name, during his lifetime, as said is, sicklike and as freely in all respects as the same was paid of before to the said deceased J. F. or any other possessor of the said office, which his Majesty wills to be allowed by the Lords auditors of his Majesty's accompts of exchequer, these presents being produced, and registered in his Majesty's rolls, as effeirs. *Given at the court at Whitehall the 30th day of March* 1685, *and of his Majesty's reign the 1st year.*

A PENSION *to Sir* J. D. *of* S. *younger, as his Majeſty's Juſtice-Clerk.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be made and paſſed under his Majeſty's privy ſeal of his ancient kingdom of Scotland, giving, granting, and diſponing, likeas his Majeſty, by theſe preſents (with the advice and conſent of his right truſty and right well-beloved couſins and counſellors J. E. of P. Lord high chancellor, and J. M. of A. Lord keeper of the privy ſeal, his right truſty and entirely beloved couſins and counſellors W. D. of H. and G. D. of G. and of his right truſty and well-beloved couſins and counſellors J. E. of T. C. E. of B. G. V. of T. Lord regiſter, and W. V. of S. lieutenant general of his Majeſty's forces within the ſaid kingdom, Lords commiſſioners of his Majeſty's treaſury, and of the reſt of the Lords of his Majeſty's exchequer) gives, grants, and diſpones unto his right truſty and well-beloved counſellor Sir J. D. of S. younger, as his Majeſty's juſtice-clerk, a yearly penſion of four hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure only: *Commanding* hereby the ſaids Lords commiſſioners of his Majeſty's treaſury, and all receivers and collectors of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever within his ſaid kingdom for the time being, readily to anſwer and pay the foreſaid penſion, in manner and during the ſpace already mentioned, unto the ſaid Sir J. D. whoſe receipt for it, in whole or in part, ſhall be to them, and to the Lords auditors of their accompts reſpectively, for allowing the ſame, a ſufficient warrant: And his Majeſty ordains the aid letter to be further extended in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall, the 31ſt day of January 1688, and of his Majeſty's reign the 4th year.*

WARRANT *for a Gift of an additional yearly Penſion of* 200 *l.* Sterling *to the ſaid Sir* J. D. *of* S. *younger, his Majeſty's Juſtice-Clerk.*

OUR SOVEREIGN LORD *ORDAINS* a letter to be made and paſſed under his Majeſty's privy ſeal of his ancient kingdom of Scotland, giving, granting, and diſponing, likeas his Majeſty, by theſe preſents, (with advice and conſent of his right truſty and right well-beloved couſins and counſellors J. E. of P. Lord high chancellor, and J. M. of A. Lord keeper of the privy ſeal, his right truſty and entirely beloved couſins and counſellors W. D. of H. and G. D. of G. and of his right truſty and well-beloved couſins and counſellors J. E. of T. C. E. of B. G. V. of T. Lord regiſter, and W. V. of S. lieutenant general of all his Majeſty's forces within the ſaid kingdom, Lords commiſſioners of his Majeſty's treaſury, and of the reſt of the Lords of his Majeſty's exchequer) gives, grants, and diſpones unto his Majeſty's right truſty and well-beloved

beloved counſellor Sir J. D. of S. younger, his Majeſty's juſtice-clerk, an additional yearly penſion of two hundred pounds Sterling money, which, with the yearly penſion of four hundred pounds Sterling, (lately granted by his Majeſty to him) makes in all the ſum of ſix hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, and ſo forth, to continue yearly and termly thereafter, during his Majeſty's pleaſure only: *Commanding* hereby the ſaids Lords commiſſioners of his Majeſty's treaſury, and all receivers and collectors of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever within his ſaid kingdom, for the time being, readily to anſwer and pay the foreſaid penſion (in manner, and during the ſpace already mentioned) unto the ſaid Sir J. D. whoſe receipt for it, in whole or in part, ſhall be to them, and to the Lords auditors of their accompts reſpectively, for allowing the ſame, a ſufficient warrant: And his Majeſty ordains the ſaid letter to be further extended in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall the 29th day of February* 1688, *and of his Majeſty's reign the 4th year.*

ESCHEAT *of Sir* H. *and Sir* G. C. *of* C. *to the Lord* V. *of* M. *fallen in his Majeſty's Hands by Forfeiture. It contains alſo an Aſſignation and Right to all Bonds heritable and moveable, Apprizings, Adjudications*, &c.

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here inſert the conſents of the exchequer, according to the conſtitution for the time, and then ſay*) ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, in due form, to his Majeſty's right truſty and right well-beloved couſin and counſellor J. V. M. ſecretary of ſtate to his Majeſty for the ſaid kingdom, his heirs or aſſignees, one or more, of the gift of the eſcheat of all goods, gear, moveable and immoveable, debts, tacks, ſteadings, rooms, poſſeſſions, acts, contracts, actions, obligations, aſſignations, decreets, ſentences, ſums of money, jewels, gold, ſilver, coined and uncoined, inſight, pleniſhings, and other goods and gear eſcheatable whatſoever, which pertained of before to Sir H. C. elder of C. and Sir G. C. younger thereof, the time after ſpecified of their being forfeited, for the cauſe after mentioned, or at any time ſinſyne, now pertaining to our ſaid Sovereign Lord, fallen and become in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by reaſon of forfeiture and eſcheat laws and practique of his realm, and privilege of his Highneſs's crown, through being of the ſaid Sir H. and Sir G. C. upon the —— day of —— 1685, forfeited and declared rebels by his Majeſty and eſtates of parliament, for the crimes of treaſon and leſe Majeſty, mentioned in the decreet and ſentence of forfeiture given and pronounced againſt them in the ſaid matter, as the ſame more fully proports. And farther, our ſaid Sovereign Lord, with advice and

conſent foreſaid, gives, grants, aſſigns, transfers and diſpones to the ſaid J. V. of M. and his foreſaids, all and whatſoever bonds, heritable and moveable, annualrents, wadſets, adjudications, appriſings, tacks, and rights of teinds, decrees, and other writs, evidents and ſecurities whatſoever made and granted to the ſaid Sir H. and Sir G. C. or either of them, or either of their predeceſſors, to whom they or either of them are apparent heirs, or neareſt of kin, and all ſums of money, principals, annualrents, penalties, expences, and ſheriff-fees contained therein, or due by virtue thereof, with all right, title and intereſt that the ſaid Sir H. and Sir G. C. or either of them, had thereto, or which his Majeſty now has by their forfeiture, or otherways, likewiſe now fallen and become in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, by the forfeiture above mentioned, at the time above ſpecified, for the cauſe above written: *With full power* to the ſaid J. V. of M. his heirs and aſſignees foreſaid, to aſk, crave, receive, intromit with, and uplift the haill debts, ſums of money, goods, gear, and others above ſpecified, hereby gifted, aſſigned, transferred and diſponed, which pertained formerly to the ſaid Sir H. and Sir G. C. or either of them, and thereupon to diſpoſe at their pleaſure, and to call and purſue therefor as accords of the law, and to occupy the ſaids lands with their own goods, or ſet the ſame to tenants, as they ſhall think expedient, with courts, plaints, herezalds, *&c.* free iſh and entry, *&c.* and with all and ſundry other commodities, freedoms, *&c.* freely, quietly, *&c.* but any revocation: And that the foreſaid letter be further extended in due form, with all clauſes needful. *Given at the court at Windſor the 14th day of July 1686, and of his Majeſty's reign the 2d year.*

GIFT *in favours of* J. S. *Uſher in Exchequer*, A. M. *and* W. S. *ſucceſſively, of the Office of being Keepers of the Council-Chamber, and Furniſhers of Coal and Candle thereto, and likewiſe Pen, Ink, Paper and Parchment to the Lords of the Treaſury and Exchequer, at their ſeveral Meetings and Diets; and of Coal and Candle to the ſaid Treaſury and Exchequer-Rooms; and bears* 40 l. Sterling *of Salary yearly for the one, and* 30 l. Sterling *for the other Office.*

OUR SOVEREIGN LORD, with advice and conſent of his Majeſty's right truſty couſins and counſellors J. D. of R. Lord high chancellor of his Majeſty's ancient kingdom of Scotland, J. D. of L. Lord preſident of his Majeſty's privy council for the ſaid kingdom, J. M. of A. Lord privy ſeal for the ſaid kingdom, A. E. of M. his Majeſty's ſecretary of ſtate for the ſaid kingdom, A. E. of A. P. E. of S. W. E. of Q. and W. E. of D. and of his Majeſty's truſty counſellor C. M. of H. his Majeſty's treaſurer-depute for the ſaid kingdom, commiſſioners of his Majeſty's treaſury in the ſaid kingdom, and with conſent of the remanent Lords and others commiſſioners of his Majeſty's exchequer in the ſaid kingdom; conſidering that his Majeſty, by his gift under his Highneſs's privy ſeal, of the date the 8th day of February 1676 years, for the

the cauſes therein ſpecified, did nominate and appoint J. S. uſher in exchequer, during his lifetime, and after his deceaſe umquhil J. S. his eldeſt ſon, during his lifetime, to be keepers of his Majeſty's council-chamber in the ſaid kingdom of Scotland, and furniſhers of coal and candle thereto, and did grant to them the office thereof, with the ſum of thirty pounds Sterling money of ſalary yearly, for keeping of the ſaid council-chamber; *and ſicklike*, his Majeſty did nominate and appoint the ſaid J. S. during his lifetime, and, after his deceaſe, the ſaid umquhil J. S. his ſon, to be furniſhers of pen, ink, paper and parchment to the commiſſioners of his Majeſty's treaſury and exchequer, and of coal and candle to the ſaid treaſury and exchequer-rooms, with the ſum of fourty pounds Sterling money foreſaid of yearly ſalary, for the expences and pains to be taken by them and their ſervants in the diſcharge of the ſaids offices, which his Majeſty has appointed to be paid to them out of the firſt and readieſt of his Highneſs's rents and caſualties of his Majeſty's treaſury, comptrollery, or treaſury of new augmentations, in manner at length ſpecified in the foreſaid gift: *And ſeeing*, that ſince the date of the foreſaid gift, the ſaid J. S. ſon to the ſaid J. S. uſher, is deceaſed, and that his Majeſty is reſolved, for certain good cauſes, to renew, ſupply and extend the foreſaid gift in favours of the ſaid J. S. and after his deceaſe in favours of the other perſons after-named, in manner under-written: *Therefore*, his Majeſty, with conſent foreſaid, hath nominated and appointed, and by theſe preſents nominates and appoints the ſaid J. S. during all the days of his lifetime, and after his deceaſe A. M. ſervitor to the Lord juſtice-clerk, during all the days of his lifetime, and after his deceaſe W. S. ſecond ſon to the ſaid J. S. during all the days of his lifetime, to be keepers of his Majeſty's council-chamber in the ſaid kingdom of Scotland, and furniſhers of coal and candle thereto; and to have given and granted, likeas his Majeſty, by theſe preſents, gives and grants to the ſaid J. S. during his lifetime, and after his deceaſe to the ſaid A. M. during his lifetime, and after his deceaſe to the ſaid W. S. during his lifetime, the office thereof, with the ſaid ſum of thirty pounds Sterling yearly of ſalary, for keeping of the ſaid council-chamber, for their own and their ſervants attendance thereon, and furniſhing the ſame with coal and candle: And in like manner, his Majeſty nominates and appoints the ſaid J. S. during all the days of his lifetime, and after his deceaſe the ſaid A. M. during all the days of his lifetime, and after his deceaſe the ſaid W. S. during all the days of his lifetime, to be furniſhers of pen, ink, paper and parchment to the ſaid commiſſioners of treaſury and exchequer, at their ſeveral meetings and diets, and of coal and candle to the ſaid treaſury and exchequer-rooms: As likewiſe, his Majeſty gives and grants to the ſaid J. S. during all the days of his lifetime, and after his deceaſe to the ſaid A. M. during all the days of his lifetime, and after his deceaſe to the ſaid W. S. during all the days of his lifetime, the office thereof, together with the ſaid ſum of forty pounds Sterling money foreſaid of ſalary yearly, for their trouble and pains to be taken by them and their ſervants therein, and for defraying of the expences thereof, to be paid to them according to the ſubſtitution above written, yearly, by the commiſſioners of his Majeſty's treaſury, treaſurer-principal and depute, his Majeſty's

jesty's cash-keeper, and receivers of his Majesty's rents, customs and casualties of the said kingdom of Scotland, present and for the time being, forth of the readiest of his Majesty's rents, customs and casualties, yearly, at Whitsunday and Martinmas, by equal portions, beginning the first term's payment thereof at the feast and term of Martinmas next to come, and so forth yearly and termly during the space of the saids three lifetimes, with all and sundry fees, freedoms, casualties, commodities, immunities, liberties and privileges thereof, sicklike and as freely in all respects as the said J. S. did bruik and possess the same at any time bygone: *And in like manner*, his Majesty hereby commands the commissioners of his Highness's treasury, his Majesty's treasurer-principal and deputes, or any of them, for the time being, or any other his Majesty's cash-keepers, or receivers of his Majesty's rents, customs and casualties, to make good and thankful payment to the said J. S. yearly during his lifetime, and after his decease to the said A. M. during his lifetime, and after his decease to the said W. S. during his lifetime, of the saids respective sums of thirty and fourty pounds money foresaid, for the causes above written, and that out of the first and readiest of his Majesty's rents and casualties of his Highness's treasury, comptrollery, treasury of new augmentations, or any of them, or out of whatsoever other rents or casualties belonging to his Majesty within the said kingdom, by whatsoever manner of way: *And sicklike*, his Majesty commands the auditors of his Majesty's exchequer, present or to come, yearly to defalcate and allow to the saids officers in their accompts, the foresaid sums contained in this present gift, being once presented and registered: And it is hereby expressly provided, that notwithstanding of the foresaid substitution, and that the said A. M. shall be admitted to the said office, yet the said J. S. during all the days of his lifetime, shall have the full and free exercise of the saids offices, with the fees, casualties, immunities, liberties, privileges, benefits and profits thereof, sicklike as if the name of the said A. M. had not been insert in these presents, and were not admitted in the lifetime of the said J. S. And likewise, it is hereby provided, that the said A. M. during all the days that he shall survive the said J. S. shall have the full and free exercise of the saids offices, with the fees, immunities, liberties, privileges, casualties, benefits and profits thereof, sicklike as if the said W. S. were not substitute to the said A. M. in this present gift; and likewise, after the decease of the said A. M. this present gift is hereby declared to be good, valid and sufficient to the said W. S. to all intents and purposes, sicklike and as fully and freely as any other persons have formerly enjoyed the saids offices, fees, and profits thereof: And his Majesty commands these presents to be passed under his Highness's privy seal of the said kingdom; and that the said gift be further extended, with all clauses needful. *Given at the court at Windsor-Castle the* 13*th day of July* 1681, *and of his Majesty's reign the* 33*d year.*

ESCHEAT

ESCHEAT *of* P. *late of* T. *in favours of* L. G. D. *containing alſo an Aſſignation and Right to all Bonds heritable and moveable, Appriſings, Adjudications,* &c. *fallen in his Majeſty's Hands by Forfeiture, moſt full and ample.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here inſert the conſents of the exchequer, according to the conſtitution for the time, and then ſay)* ORDAINS a letter to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, in due form, to his Majeſty's right truſty and familiar counſellor lieutenant-general W. D. of C. commander of all his Majeſty's forces within the ſaid kingdom, his heirs or aſſignees, one or more, of the gift of the eſcheat of all goods, gear, moveable and immoveable, debts, ſums of money, tacks, ſteadings, rooms, poſſeſſions, acts, contracts, actions, obligations, aſſignations, decreets, ſentences, ſums of money, jewels, gold, ſilver coined and uncoined, inſight, pleniſhing, and other goods and gear eſcheatable whatſomever, which pertained of before to —— P. of T. at the time after ſpecified, of his being forfeited for the crime after mentioned, or at any time ſinceſyne, or which pertained to any of his predeceſſors, to whom he is apparent heir or neareſt of kin, and now pertaining to our ſaid Sovereign Lord, fallen and become in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by reaſon of forfeiture and eſcheat privilege of his Majeſty's crown, and laws and practique of this realm, by and through the decreet and ſentence of forfeiture given and pronounced againſt the ſaid —— P. by our ſaid Sovereign Lord and the eſtates of parliament, upon the —— day of —— 16 — years, for the crimes of treaſon and leſe Majeſty therein expreſſed, as in the proceſs and decreet of forfeiture obtained in the ſaid matter, at more length is expreſſed: *And further*, our ſaid Sovereign Lord, with advice and conſent foreſaid, gives, grants and diſpones to the ſaid lieutenant-general W. D. and his above ſpecified, all and whatſomever bonds, obligations, both heritable and moveable, tickets, contracts, diſpoſitions, adjudications, appriſings, wadſets, infeftments of annualrent, aſſignations, tranſlations, and other writs, rights and ſecurities whatſomever, made, granted and conceived, or which may be interpreted in favours of the ſaid —— P. of T. or any of his predeceſſors, to whom he is apparent heir, or neareſt of kin as ſaid is; and all ſums of money, principals, annualrents, penalties, and ſheriff fees, contained therein, or due by virtue thereof; and likewiſe all tacks, aſſedations, decreets of valuation, prorogation, and other rights and ſecurities whatſomever, made and granted to him, or any of his predeceſſors, to whom he is apparent heir, of and concerning the teinds, parſonage and vicarage of the lands and barony of T. or of whatſomever other lands and heritages belonging to him, with all right that his Majeſty has thereto by the forfeiture above mentioned, of whatſomever years and terms bygone and to come, and all action and execution competent, or that may be competent to his Majeſty for recovering payment thereof, likewiſe fallen and become in his Majeſty's hands, by the forfeiture, and at the time above ſpecified, for the cauſe above mentioned: *With*

full

full power to the ſaid lieutenant-general W. D. and his foreſaids, to aſk, crave, receive, intromit with, and uplift the haill debts, ſums of money, and other goods and gear eſcheatable above ſpecified, and likewiſe all ſums of money, and due by virtue of the ſaid adjudications, appriſings, wadſets, heritable and moveable bonds, and other writs, particularly and generally above ſpecified; and likewiſe all teinds and teind-duties due to him by virtue of the tacks, aſſedations, decreets, and other rights above written, and thereupon to diſpone at their pleaſure, and to call and purſue therefor as accords of the law, and to occupy the ſaids lands with their own goods, or ſet the ſame to tenants, as they ſhall think expedient, with courts, plaints, herezalds, free iſh and entry, and with all and ſundry other commodities, freedoms, *&c.* freely, quietly, *&c.* but revocation, *&c.* And that the foreſaid letter be farther extended in the beſt form, with all clauſes needful. *Given at the court at Windſor the 9th day of June* 1686, *and of his Majeſty's reign the ſecond year.*

WARRANT *for a yearly Penſion of* 200 *l. Sterling to* J. C. *of* M. *as one of the three Collectors and Receivers, and as one of the three Paymaſters in* Scotland.

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here inſert the conſents of the exchequer, according to the conſtitution for the time, and then ſay)* ORDAINS a letter to be made and paſſed under the privy ſeal of his ancient kingdom of Scotland, giving, granting and diſponing, likeas, his Majeſty, by theſe preſents, (with advice and conſent foreſaid,) gives, grants and diſpones unto J. C. of M. as one of the three receivers and collectors of his Majeſty's rents, revenues, cuſtoms and caſualties whatſoever, within his ſaid kingdom, and as one of the three paymaſters of all his ſtanding forces already levied, or hereafter to be levied within his ſaid kingdom, a yearly penſion of two hundred pounds Sterling money, to be paid unto him at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, and ſo forth to continue yearly and termly thereafter, during his Majeſty's pleaſure only: *Commanding* hereby the ſaids Lords commiſſioners, and all other collectors and receivers of his Majeſty's rents, revenues, cuſtoms, caſualties, profits and duties whatſoever within his Majeſty's ſaid kingdom, for the time being, readily to anſwer and pay the foreſaid penſion, (in manner, and during the ſpace already mentioned,) unto the ſaid J. C. whoſe receipt for the ſame, in whole or in part, ſhall be to them reſpectively, and to the Lords auditors of their accompts for allowing the ſame, a ſufficient warrant: And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall the 27th day of February* 1686, *and of his Majeſty's reign the ſecond year.*

LETTER

LETTER *of Exoneration, in favours of* S. J. F. *as to his Concern in the Mint.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of his Majeſty's right truſty and right well beloved couſin and counſellor W. D. of Q. *&c.* Lord high treaſurer, comptroller, receiver and collector-general of his Majeſty's rents, caſualties and new augmentations of his Highneſs's ancient kingdom of Scotland, and of his Majeſty's right truſty and well beloved couſin and counſellor J. E. of K. *&c.* his Majeſty's treaſurer-depute in all the ſaids offices, and alſo of the remanent Lords and others of his Majeſty's exchequer of the ſaid kingdom, his Highneſs's commiſſioners, ORDAINS a letter of exoneration and diſcharge to be made and granted under his Highneſs's privy ſeal of the ſaid kingdom, in due and competent form, *making mention*, That foraſmuch as, in a purſuit commenced before the Lords of his Majeſty's council and ſeſſion, at the inſtance of Sir G. M. of R. his Majeſty's advocate, by expreſs warrant of his late Majeſty King Charles the ſecond, (of ever-bleſſed memory,) againſt C. now E. of L. and R. L. M. his ſon, as generals, S. J. F. maſter, and A. F. counter-warden, and other officers of the mint of the ſaid kingdom, for ſeveral malverſations and abuſes committed by them in the ſaid mint, the ways and manner mentioned in the libel or ſummons raiſed thereanent; the ſaids Lords by their decreet, dated the twentieth day of March One thouſand ſix hundred and eighty-three years, decerned the ſaid C. E. of L. and —— *ſingulos in ſolidum*, for twenty ſhillings of free profit upon the pound, upon the fourteen thouſand ſtone coined the firſt copper journey, more than was allowed by the warrants from his Majeſty, and his ſecret council, extending to the ſum of two hundred and twenty-four thouſand pounds uſual money of the ſaid kingdom of Scotland, and decerned the ſaid E. of L. L. M. S. J. F. and A. F. *ſingulos in ſolidum*, for the ſum of twenty ſhillings Scots of free money upon the pound, of the number of five thouſand four hundred and forty-four ſtone coined, more than was allowed by his ſaid late Majeſty and ſecret council's warrants, the ſecond copper journey, before the act of indemnity, extending to the ſum of fourſcore ſeven thouſand nine hundred and four pounds money foreſaid, and for the thirty-two ſhillings on the pound of the three thouſand nine hundred and ninety-nine ſtone, coined after the act of indemnity, extending to the ſum of one hundred twenty-three thouſand ninety-eight pounds eight ſhillings money foreſaid, and for the nine thouſand five hundred thirty-two pounds four ſhillings money above written, for the difference of the fineneſs of the money from the indented ſtandard-plate, and for the ſum of one hundred forty-three thouſand ſeven hundred twenty-ſix pounds money foreſaid, as the value of one hundred eighty-two ſtone two ounces and two drops of chiſel-heads, ſweeps and ſcraps coined without eſſay ſince the act of indemnity, and for the ſum of five thouſand three hundred eighty-ſix pounds money foreſaid, as the difference of the dean of guild's weights from the Scots pile, and for the ſum of ſix thouſand ſix hundred pounds money foreſaid, for the

remedies of weight of the ſilver, coined from the —— day of —— 16 — years, to the firſt day of September One thouſand ſix hundred and ſeventy-three years and for the ſum of twelve thouſand three hundred ſixty-eight pounds thirteen ſhillings four pennies money foreſaid, as the profit of the exaltation, by the crying up of the money, and for the ſum of forty-three thouſand two hundred eighty-ſix pounds money foreſaid, as the twelve ſhillings upon the ounce of two hundred eighty-one ſtone twelve pounds fifteen ounces and ten drops of dollars and ducatdowns, melted from the ſeventeenth day of January 16 — years, until January One thouſand ſix hundred and eighty-two years, and for the value of the ordinary annualrent of the twenty thouſand merks, and the annuals of the ſaid annualrent *pro rata*, as following, *viz.* againſt the ſaid E. of L. from the year One thouſand ſix hundred and ſixty-two (and that the ſtock was appointed by his late Majeſty,) until September One thouſand ſix hundred and eighty-two, extending to the ſum of twenty-five thouſand and ſix hundred pounds money foreſaid, and againſt the ſaid L. M. ſince the —— day of —— One thouſand ſix hundred and ſixty-eight, and againſt the ſaid S. J. F. ſince the entry to his office of maſter of the mint, and decerned againſt the ſaid E. for the ſum of four thouſand nine hundred pounds money foreſaid, received in double payment of his three years ſalary, with the value of the ordinary annualrent thereof, extending in all to the ſum of ſeven thouſand nine hundred twenty-one pounds ten ſhillings money foreſaid; and for the ſix hundred pounds Sterling contained in the ticket granted by the ſaid S. J. to the ſaid E. with the annualrent thereof from the firſt day of January One thouſand ſix hundred and ſeventy-nine, extending to the ſum of eight thouſand nine hundred twenty-eight pounds money foreſaid, and aſſoilzieing the ſaid L. M. and S. J. F. from the ſaid libel, in ſo far as concerns the firſt copper journey, and aſſoilzied the ſaid Lord M. from the annualrent of his Majeſty's ſtock of twenty thouſand merks, and the annuals thereof for the years preceding the —— day of —— One thouſand ſix hundred and ſixty-eight, and aſſoilzied the ſaid S. J. F. for the years preceding his entry to his office of maſter of the mint, and aſſoilzied the whole defenders from the annualrents of the ſums contained in the other articles of the libel, except as to his Majeſty's ſtock, the double payment of the ſix hundred pounds Sterling, contained in the ſaid S. J. F. his ticket to the ſaid E. of L. in manner, and for the cauſes more fully and amply ſpecified and contained in the ſaid ſummons or libel commenced before the ſaid Lords, and decreet following thereupon, of the date above ſpecified, or of whatſoever other date, tenor, contents, nature or quality the ſame be of, all here holden as for expreſſed, *brevitatis cauſa*: And his Majeſty conſidering, that after pronouncing the ſaid decreet, and report thereof made to his ſaid late Majeſty, he by a letter of the date at —— the twenty-firſt day of March One thouſand ſix hundred and eighty-two, appointed and gave to S. W. S. ſuch ſums as ſhould ariſe by the ſaid S. J.'s accompts of bullion from the firſt day of November One thouſand ſix hundred and ſeventy-five, to the firſt of November One thouſand ſix hundred and eighty, and of an hundred and thirty-three ſtone not accompted for by him; and by his other letter of the

thirtieth

thirtieth of September One thouſand ſix hundred and eighty-four, bearing, that the ſaid S. J. was found debitor to his ſaid late Majeſty in three thouſand pounds Sterling of balance for bullion, for which he gave ſecurity to the ſaid S. W. and approved of the ſame; and his ſaid late Majeſty, by his other letter of the date the twenty-ſixth day of December One thouſand ſix hundred and eighty-three, appointed the Earls of M. and M. to be paid of three thouſand pounds Sterling out of the ſaid S. J. and —— of —— their fines, and which letters are directed to the Lords treaſurers, principal and depute; and accordingly, the ſaid S. J. F. has given obedience, by ſatisfying and ſecuring S. W. S. and by paying in the remainder to H. W. his Majeſty's caſh keeper; likeas his Majeſty has, upon the day and date of theſe preſents, been graciouſly pleaſed, upon the conſiderations therein mentioned, to grant to the ſaid S. J. a full, free and ample remiſſion and indemnity of all malverſations, delicts, crimes of omiſſion or commiſſion, omitted or committed by him in the ſaid office, and that as well treaſonable crimes, as the other crimes committed by him in relation thereto, or whereunto he was acceſſary, art and part, by any manner of way, of whatſoever nature the ſaid crimes be of, whether treaſonable or capital, or inferring arbitrary puniſhment, or pecunial fines, in manner more fully ſpecified in the ſaid remiſſion: *And likeways*, his Majeſty, conſidering the ſaid S. J. his ready and cheerful obedience given to his ſaid late Majeſty's letters aforeſaid, and notwithſtanding that the ſaid ſums ſo paid and ſecured by the ſaid S. J. be a very inconſiderable part of the ſums decerned to his ſaid late Majeſty, or which might have been decerned to his Highneſs, yet his Majeſty being willing to put a character of his royal favour upon him, and that he and his family may not altogether be extinguiſhed, but have ſome ſubſiſtence in a world, and to enable and encourage them to do and perform to his Majeſty and royal ſucceſſors, all loyal and dutiful ſervices for the future, and thereby trace the veſtiges of the deceaſed A. L. H. of whoſe family he is deſcended, and of whoſe great ſufferings for the crown his Majeſty is always mindful, as is more fully ſpecified in the ſaid remiſſion and indemnity: *Therefore*, of his Majeſty's free and royal bounty, clemency and goodneſs, and of his prerogative royal, certain knowledge, and proper motive, exonering, quit-claiming, and for ever diſcharging, likeas his Majeſty, with conſent foreſaid, by theſe preſents, for him and his royal ſucceſſors, exoners, quit-claims, and freely and *ſimpliciter* diſcharges the ſaid S. J. F. and his heirs, executors and ſucceſſors for ever, in all time coming, of the foreſaid decreet pronounced before the ſaids Lords, of the date, tenors and contents above ſpecified, or of whatſoever other dates, tenors and contents the ſame be of, and of the haill ſums of money, principal, annualrents, and of the annualrents of the ſaids annualrents therein contained, and thereby found due and decerned by the ſaids Lords, and ſpecially, but prejudice of the generality foreſaid, of the ſums decerned in relation to the ſaid bullion appointed by his ſaid late Majeſty, for increaſing and maintaining of the ſtock of coinage, and not employment of the ſums of money appointed to be paid into the mint, by the merchants of the ſame, in manner as was deſtinated by his ſaid late Majeſty, and in relation to the melting down any of the current

coin of the kingdom, and in relation to the ſum of money allowed by his ſaid late Majeſty, as a ſtock for buying in of bullion from time to time, and not exchanged as it ought to have been, and in relation to the coining of money below the fineneſs of the indented ſtandard plate, and in relation to the making uſe of weights different from the piles of weights ſent down by his late Majeſty to the mint of Scotland, to be the rule of the weights there, and in relation to the making uſe at any time of the dean of guild of Edinburgh's weights, which is different from the Scots pile, and in relation to the coining of money upon the remedies, either of weight or fineneſs, or troning of the pieces upon the remedies, or beyond them, under the juſt weight; and in relation to the receiving of the bullion from the merchants by the dean of guild's weights of Edinburgh, which are heavier than the Scots troy weight, and the paying of the merchants for their bullion by tale, whereas they ſhould have been paid by the king's coin in the balance, before the act of parliament in the year One thouſand ſix hundred and ſixty-nine, anent the bullion; and in relation to the cutting of the pieces reſerved in the pix, that ſome trial that way might be made of the money coined; and in relation to the coining of more copper or black money than was contained in the acts of parliament and council, which was the warrant for coining thereof; and in relation to the profit of the exaltation of the money, by the crying up of the coin of the ſaid kingdom to paſs at a higher rate than formerly; and in relation of giving any bud or bribe to any officers of ſtate, or others whatſoever, for procuring allowance or payment of any accompts relating to the mint; and in relation to any profit or advantage that might any ways ariſe or redound to the ſaid S. J. by any of the foreſaid acts or deeds of malverſation, or other crimes above mentioned, and of all the ſums of money, and other articles mentioned in the ſaid proceſs or decreet, and likeways of all other ſums competent to have been libelled, and might have fallen due to his Majeſty, or that upon any diſcovery whatſoever may hereafter appear to be due and belong to his Highneſs, and annuals of the ſaid ſums bygone and in time coming, and of all other commodities, emoluments, profits, fines, or others whatſoever, that may or can ariſe or accreſce to his Majeſty, by and through any of the crimes, faults, malverſations, miſdemeanors and abuſes, particularly and generally contained in the ſaid remiſſion, or by and through any civil cauſe mentioned in the ſaid decreet and proceſs, and of all other action, purſuit, inſtance or execution whatſoever, competent, or that may be competent to his Majeſty and his royal ſucceſſors, in all or either of the particulars, circumſtances and matters, particularly and generally mentioned in the ſaid decreet and proceſs, or that can be otherwiſe, and over and above the ſame, anywiſe laid to his charge; and eſpecially, but prejudice of the ſaid generality, of all bullion, or money received in lieu of bullion, or that might have been received by the ſaid S. J. from merchants, collectors, tackſmen or others, preceding September 1682; and declares and decerns the ſaid S. J. and his foreſaids, fully, freely and abſolutely quit thereof, and free and liberate therefrom, and for ever exonered and diſcharged of the ſame in all time coming; reſerving always to his Majeſty and his foreſaids, the benefit of the obligement granted by the

the ſaid S. J. to his Majeſty's Lord high treaſurer, and treaſurer-depute, dated the 3d of September One thouſand ſix hundred and eighty-four, for coining the particular quantity of bullion therein expreſſed, when the mint ſhall be opened, as being excepted forth of the ſaid exoneration and diſcharges, and nowiſe comprehended therein; and likewiſe reſerving power to his Majeſty and his foreſaids, and their treaſurer-principal and depute, to call and purſue the other perſons decerned in the ſaid decreet *in ſolidum*, for the ſums contained therein, ſo far as they are not paid and ſatisfied by the ſaid S. J. and as none of them may recur againſt him or his foreſaids, for relief of any part of the ſums for which they ſhall be ſo diſtreſſed, in reſpect his Majeſty's full purpoſe, and of certain knowledge and proper motive, is, to ſecure hereby the ſaid S. J. and his foreſaids againſt the ſame for ever in all time coming: *And moreover*, his Majeſty, with conſent foreſaid, in reſpect of the ſaid payment or ſecurity, and other cauſes foreſaid, by theſe preſents, aſſigns the ſaid S. J. and his foreſaids, to all bullion and ſums of money due upon the accompt of the bullion before the month of November One thouſand ſix hundred and eighty, lying out in tackſmen, collectors, merchants, or other hands, and due preceding the ſaid time, whether by accompt, bond or ticket, either granted to his Majeſty, or to the ſaid S. J. as maſter of the ſaid mint, or to any other perſon or perſons for his Majeſty's behoof, and in and to the ſaid bonds, tickets and accompts, and all annualrent due on the account thereof, either by obligation, law or cuſtom, and all action, purſuit, inſtance and execution whatſoever, competent, or that may be competent to his Majeſty or his foreſaids thereupon, with all that has followed or may follow on the ſame for now and ever: And appoints his Majeſty's Lord high treaſurer, and treaſurer-depute, to grant letters of relief and payment to the ſaid S. J. and his foreſaids, from time to time, as to what relates to the ſaid bullion, and the Lords of council and ſeſſion to grant to him and his foreſaids, all letters, execution and diligence, upon all bonds and obligations, not relating to bullion, but really granted for that cauſe; and recommends to both judicatures not to grant ſuſpenſion without hearing, and conſignation in caſe of ſuſpenſion. And *laſtly*, His Majeſty faithfully promiſes, *in verbo principis*, to ratify the ſaid exoneration and diſcharge in the next enſuing parliament, requiring his Majeſty's eſtates of parliament to ratify the ſame accordingly. *Given at the court at Whitehall the 4th day of April* 1685, *and of his Majeſty's reign the 1ſt year.*

PRESENTATION *in favours of Mr.* J. F. *to the Profeſſion of Mathematics in* St. Andrews.

OUR SOVEREIGN LORD, conſidering that his Majeſty's deareſt brother (of bleſſed memory) did mortify two hundred pounds Sterling, to be paid by his Majeſty's exchequer yearly to the univerſity of St. Andrews, whereof fifty pounds Sterling was allowed and appointed to be paid to the profeſſor of the

the mathematics in that univerſity; likeas, by the twenty-third act of his ſaid late Majeſty's third parliament, holden at Edinburgh the — day of — 1681, there was impoſed on the land rent of this kingdom an half month's ceſs, to be ſtocked for the uſe of the ſaid univerſity, and divided in its juſt proportions to the ſeveral maſters and profeſſors in the ſeveral colleges therein, by the advice and authority of his Majeſty's privy council; and his Majeſty being informed, that the ſaid profeſſion of mathematics is in hazard to languiſh and decay, through the not due payment of the ſalary ſo deſigned for maintaining thereof, and that the ſame is now vacant, by the removal of Mr. W. S. late profeſſor of the ſaid mathematics; and his Majeſty, out of the ſpecial regard he has to promote the ſaid ſcience, and to give all due and ſuitable encouragement to the profeſſors thereof, being reſolved to make the ſaids donations effectual to them, to the end that the children of his ſubjects of quality, and others, may be bred up in the ſeveral parts of that ſcience, which are neceſſary for his Majeſty's ſervice both by ſea and land; and being alſo informed of the qualifications, ſkill and ability of Mr. J. F. preſent profeſſor of humanity in St. Leonard's college in that ſcience; *Therefore*, his Majeſty ORDAINS a letter of preſentation to be paſſed and expede under his Majeſty's privy ſeal of his Highneſs's ancient kingdom of Scotland, in due and competent form, nominating and preſenting, likeas his Majeſty hereby nominates and preſents the ſaid Mr. J. F. to the ſole profeſſion of mathematics in the ſaid univerſity of St. Andrews, during all the days of his lifetime, giving, granting and diſponing, of his Highneſs's certain knowledge and proper motive, to him yearly, during the ſaid ſpace, and to his ſucceſſors therein, yearly thereafter in all time coming, the ſum of fifty pounds Sterling of fee and ſalary, out of the firſt and readieſt of the rent of the ſaid half month's ceſs and lands acquired or to be acquired therewith, in lieu and place of the ſaid fifty pounds Sterling formerly payable to the profeſſor of mathematics in the ſaid univerſity, out of his Majeſty's exchequer, yearly, together with all other fees, penſions, caſualties, profits, emoluments, privileges, precedencies and immunities whatſoever, due and belonging to the ſaid profeſſion, (except the foreſaid fifty pounds Sterling, formerly paid out of the exchequer, in lieu whereof this is granted), or that ſhall hereafter appertain and belong thereto: *With full power* to the ſaid Mr. J. F. to uplift and receive the ſaids fees and ſalaries, call and purſue therefor, and to uſe and exerce all and ſundry powers and privileges competent and pertaining to the ſaid profeſſion, as fully and freely as the former profeſſors therein, or any other profeſſor of mathematics in his Majeſty's ancient kingdom of Scotland did, do, or might have done heretofore: *Requiring* hereby the moſt reverend the archbiſhop of St. Andrews chancellor, and the rectors, principals and members of the ſaid univerſity whom it concerns, to admit and receive the ſaid Mr. J. F. to the ſaid profeſſion in the uſual manner; and alſo requiring the Lords of his Majeſty's privy council, conform to the power granted to them by the ſaid act of parliament, to allocate and appropriate ſo much of the firſt and readieſt rents of the ſaid half month's ceſs and lands, acquired or to be acquired therewith, for the uſe of the ſaid profeſſor, as will pay the ſaid fifty pounds

pounds Sterling of ſalary, to the ſaid Mr. J. F. and his ſucceſſors in that profeſſion yearly, beginning the firſt year's payment of this crop and year of God One thouſand ſix hundred and eighty-eight, and thereafter yearly in all time coming during the ſaid ſpace, and that in lieu and place of the ſaid fifty pounds Sterling formerly payable to them out of his Majeſty's exchequer; hereby ordaining the chamberlains and factors of the ſaid univerſity to make payment to him and his ſucceſſors of the ſaid ſalary accordingly; and that the Lords of council and ſeſſion grant and direct letters of horning, and others needful, in form as effeirs, for payment thereof of this inſtant crop, and yearly thereafter in time coming: And becauſe of the ſaid ſettlement and deſtination, therefore his Majeſty authoriſes, and hereby requires the ſaids Lords of his privy council to divide and proportion among the maſters and profeſſors of the ſaid univerſity, the ſaid fifty pounds Sterling, which was formerly paid to the ſaid profeſſors out of the ſaid two hundred pounds Sterling, payable to the ſaid univerſity out of his Majeſty's exchequer, and that according to the ſame proportion, that the ſaid fifty pounds Sterling payable out of the ſaid half month's ceſs would have been divided amongſt them, if it had not been appropriated to the ſaid profeſſor of mathematics, in manner above ſpecified; and that the ſaid preſentation be paſſed and expede in the beſt form, and extended with all clauſes needful. *Given at the court at Whitehall the 5th day of November* 1688, *and of his reign the 4th year.*

WARRANT *for a Preſentation in favours of Mr.* J. F. *to be Principal of the College of* Glaſgow, *and Parſon of* Govan.

OUR SOVEREIGN LORD underſtanding, that the college of Glaſgow is now vacant, (without a principal,) by and through the death of Mr. E. W. late principal there, as alſo the pariſh-church and parſonage of G. lying within the ſheriffdom of —— and preſbytery of Glaſgow, (the principal of the ſaid college being, in the laſt foundation thereof, declared parſon of G. by King James VI. of bleſſed memory,) ſo that now both theſe places are fallen in his Majeſty's hands, and at his gift and diſpoſition; and being informed of the literature, qualifications, good life and converſation of Mr. J. F. his Majeſty's hiſtoriographer for the kingdom of Scotland, and of his fitneſs to exerce theſe offices; *Therefore*, his Majeſty ORDAINS a letter to be made and paſſed under his privy ſeal of that his ancient kingdom, nominating and preſenting the ſaid Mr. J. F. to be principal in the ſaid college, and parſon at the foreſaid church, and in and to the haill ſtipends, fees, profits and caſualties, with the privileges, liberties and immunities, known and accuſtomed formerly to belong to the ſaid principal, and that of the crop and year of God 1683, and ſicklike yearly thereafter during his life, and ſerving the cure at the ſaids places; *with full power* unto him, or his factors in his name, to aſk, crave, uplift and receive, intromit with,

with, bruik and enjoy the ſame, and thereupon to diſpone at his pleaſure, as fully and freely in all reſpects, as any principal of the ſaid college, or parſon of the ſaid pariſh hath, might, or ought to have done heretofore: *Commanding* hereby the right reverend father in God Arthur, by divine providence, Lord archbiſhop of Glaſgow, and chancellor of the univerſity thereof, to take trial of the literature, loyalty, piety, good life and converſation of the ſaid Mr. J. F. and being found qualified, to admit him to the foreſaid employment, with all convenient diligence after the ſight hereof, and to all the ſtipends, fees, profits and caſualties, with the liberties, privileges and immunities, known and accuſtomed formerly to belong thereto, to be bruiked, poſſeſſed and diſponed upon, as is above expreſſed, and to cauſe him to ſwear and ſign the teſt appointed by the act of parliament for acknowledging his Majeſty's royal authority, and ſubjection to his Majeſty; *and ſicklike*, to take his oath for giving due canonical obedience to the ſaid moſt reverend father in God, his ordinary, as uſe is: *Commanding* the Lords of council and ſeſſion, upon ſight hereof, with the collation and inſtitution to follow hereupon, to grant and direct letters of horning, poinding, and others needful, on a ſimple charge of ten days only, and that for anſwering, obeying, and paying the ſaid Mr. J. F. himſelf, his factors and ſervants in his name, the foreſaid ſtipend and benefice, as this his Majeſty's preſentation in itſelf more fully bears; *and ſicklike*, commanding the occupiers and poſſeſſors of the manſes at Glaſgow and Govan to flit and remove therefrom, to the effect the ſaid Mr. J. F. may peaceably enjoy, bruik and poſſeſs the ſame: and his Majeſty ordains theſe preſents to be extended in the beſt form, with all clauſes needful. *Given at the court at Windſor-Caſtle the 13th day of June* 1684, *and of his Majeſty's reign the 36th year.*

GIFT *of the Office of Sheriff-depuſeſhip of the Shire of* Forfar, *to* A. C.

OUR SOVEREIGN LORD conſidering, that, by his commiſſion under the privy ſeal, of the date the laſt day of December One thouſand ſix hundred and ſixty years, he did nominate and appoint Sir J. K. of P. knight and baronet, (therein deſigned J. K. of C.) ſheriff-depute of the ſheriffdom of Forfar, haill bounds and juriſdiction thereof, and gave, granted and diſponed to him during all the days of his lifetime, the ſaid place and office, with all privileges, fees, caſualties, profits and duties pertaining and belonging, or which ſhould happen to pertain and belong thereto, in manner at length ſpecified in the ſaid commiſſion, as the ſame of the date foreſaid at more length bears; and that the ſaid Sir J. K. with conſent of R. E. of S. ſheriff-principal of the ſaid ſheriffdom, has granted and ſubſcribed a demiſſion of the office, containing a procuratory for reſigning the ſame in his Majeſty's hands: And our ſaid Sovereign Lord underſtanding how neceſſary it is that the ſaid vacancy be ſupplied, and being ſufficiently informed of the qualifications and ability of A. C. brother to J. C.

of

of B. to exerce the ſaid office of ſheriff-depuſeſhip within the ſaid ſheriffdom; *Therefore*, making, conſtituting and creating, likeas, his Majeſty, by the tenor hereof, makes, conſtitutes and creates the ſaid A. C. during all the days of his lifetime, ſheriff-depute of the ſaid ſheriffdom of Forfar; *with full power* to the ſaid A. C. during all the days of his lifetime, to bruik, enjoy, uſe and exerce the foreſaid office of the ſheriff-depuſeſhip of the ſaid ſheriffdom, with all and ſundry privileges, pre-eminencies, honours, dignities, immunities and juriſdictions whatſoever belonging thereto, ſicklike, and as freely as any other ſheriff-depute of any other ſhire within the kingdom of Scotland, bruiks and enjoys, or has bruiked and enjoyed the like office in any time bygone; and, for that effect, to ſet, affix and hold courts at any place within the ſaid ſheriffdom, at whatſoever time he ſhall think expedient, for deciding and determining in all actions and cauſes, as well civil as criminal, bloods, batteries, riots upon life or limb, and all other cauſes whatſoever pertaining to the ſaid office of ſheriff-depuſeſhip and to make, create and ſubſtitute deputes and ſubſtitutes, one or more under him in the ſaid office, for whom he ſhall be anſwerable, with officers, ſerjeants, dempſters, and all other members of court needful, (except clerks,) and the ſame as oft as need ſhall be, to change, alter and put out at his pleaſure, and to intromit with, uplift and receive all and ſundry bloodwits, eſcheats, amerciaments, and iſſues of court, with all other fees, caſualties, profits and duties whatſoever pertaining and belonging to the ſaid office, freely, quietly, *&c.* without any revocation, *&c.* And that the ſaid letter be further extended in the beſt form, with all clauſes needful, in form as effeirs; and that theſe preſents be a ſufficient warrant to the writer to, and keeper of the privy ſeal, for writing of the ſaid letter, and appending the privy ſeal thereto, without neceſſity of paſſing any other regiſter or ſeals. *Given at the court at Whitehall the 2d day of February* 1681-2, *and of his Majeſty's reign the* 34*th year.*

WARRANT *for a Gift of the Office of Maſter-Falconer to his Majeſty in* Scotland, *in favours of* J. N. *of* P.

OUR SOVEREIGN LORD conſidering, that the place and office of maſter-falconer to his Majeſty within his ancient kingdom of Scotland, is now vacant, and that J. N. of P. is a perſon very well qualified for exercing the ſame, and particularly, for providing, furniſhing and keeping of his Majeſty's hawks; *Therefore*, ORDAINS a letter of gift to be made and paſſed under the privy ſeal of his ſaid kingdom, in due form, nominating, making, conſtituting and appointing, likeas, his Majeſty, by theſe preſents, nominates, makes, conſtitutes and appoints the ſaid J. N. during his Majeſty's pleaſure only, ſole and only maſter-falconer to his Majeſty, and keeper and provider of his Majeſty's hawks of all ſorts within his ſaid kingdom, giving, granting and diſponing unto him the ſaid office, with all immunities, privileges, caſualties, profits and duties thereunto belonging; *with full power* to him, by himſelf, or his deputes and ſervants

vants under him, (for whom he ſhall be anſwerable,) to enjoy and exerce the ſaid office, during the ſpace foreſaid, as fully and freely in all reſpects, as any other his Majeſty's maſter-falconer within the ſaid kingdom, has, or might have poſſeſſed and enjoyed the ſame at any time heretofore: And his Majeſty, in conſideration of the great pains and expences which the ſaid J. N. muſt be at in diſcharging the duty of the ſaid office, has, with advice and conſent, *(here inſert the conſents, according to the conſtitution for the time, and then ſay)* given and granted, and hereby gives and grants to the ſaid J. N. during his continuance in the ſaid place and office, a yearly fee and penſion of one hundred pounds Sterling money, whereof fourſcore pounds Sterling is to be paid unto him yearly, forth of the firſt and readieſt of his Majeſty's rents, revenues, cuſtoms and caſualties whatſoever within the ſaid kingdom, and the remaining twenty pounds Sterling to be paid to him out of Orkney, as the ſame has been in uſe formerly to be uplifted by his Majeſty's falconers, together with the caſualties formerly enjoyed and uplifted out of Orkney by A. S. and which fee and penſion above written is declared to be in ſatisfaction of all that the ſaid J. N. can aſk or pretend to, either for pains or expences in diſcharging the ſaid office, out of which he is obliged to pay the fees of all under-falconers and ſervants, and is to furniſh hawks for the King yearly; for the keeping and maintaining of which, and defraying all other charges relating to the foreſaid place and office, the ſaid fee and penſion is given by his Majeſty unto him: *Requiring* hereby his Majeſty's ſaid treaſurer-principal, treaſurer-depute, receiver-general and caſh-keeper preſent and for the time being, to make payment unto him of the foreſaid yearly fee and penſion, at two terms every year, Whitſunday and Martinmas, by equal portions, whereof the firſt term's payment is to be at Whitſunday next enſuing the date of theſe preſents, for the half year immediately preceding, and ſo forth yearly and termly thereafter during the ſpace foreſaid; for doing whereof, this ſhall be to them and the Lords auditors, (for allowing the ſame in their accompts,) a ſufficient warrant; and his Majeſty hereby recals all former gifts and grants of the ſaid place and office, or any part thereof, particularly what was enjoyed by A. S. declaring the ſame and every of them, to be void and null in all time coming. And *laſtly*, His Majeſty ordains the ſaid letter of gift to be further extended in the beſt form, with all clauſes needful, and to be inſerted in the books of exchequer in common form. *Given at the court at Whiethall the 28th day of December* 1682, *and of his Majeſty's reign the* 34*th year.*

GIFT *and* PRESENTATION *in favours of* Archibald *Biſhop of the* Iſles, *to a particular Church within the Dioceſe of* Glaſgow, *and ſome other Benefices additional to his Biſhopric, and to ſupply the ſmall Patrimony thereof.*

OUR SOVEREIGN LORD conſidering, that the pariſh-church of Kingarth, lying within the ſheriffdom of Bute, and dioceſe of the iſles, is now vacant in his Majeſty's hands, as undoubted patron of the ſaid kirk and pariſh, by the tranſportation of Mr. J. S. late miniſter thereat; and that the chancellor

chancellor of his Majeſty's chapel royal of Stirling is titular of the parſonage-teinds of the ſaid pariſh, and that one of the quiriſters of the ſaid chapel is titular of the vicarage-teinds of the ſame, and that now, (and of a long time bygone,) the ſaids offices of chancellor and quiriſter have been vacant, through the deceaſes of thoſe who were preſented to the ſaids benefices; and his Majeſty likewiſe conſidering, that the modified ſtipend payable to the miniſter of K. is very mean and inconſiderable, and that the biſhop of the iſles, (whoſe revenue by the iniquity of the times, is become very ſmall, and far below what is fitting to maintain the dignity and expence of a biſhop,) is willing to ſerve the cure of the ſaid church, and at ſuch time as his Majeſty ſhall think fit to open his ſaid chapel royal, and that the ſame be actually made uſe of, and put in order, to furniſh with a ſuitable maintenance, ſuch able and qualified perſons as ſhall be preſented by his Majeſty to be chancellor and quiriſter, whenever his Majeſty ſhall be pleaſed to require him to do the ſame; and his Majeſty being willing to give all due encouragement to the reverend father in God A. preſent biſhop of the iſles; *Therefore*, his Majeſty ORDAINS a letter of gift and preſentation to be made and paſſed under his Highneſs's privy ſeal, in due form, not only nominating and preſenting, and by theſe preſents, nominates and preſents the ſaid reverend father A. biſhop of the iſles, during all the days of his lifetime, to be miniſter of the ſaid kirk of K. and to the modified ſtipend formerly enjoyed by the miniſters of the ſaid kirk, and to the manſe and glebe of the ſaid pariſh; but likewiſe, giving, granting and diſponing, and, by the tenor hereof, gives, grants and diſpones to the ſaid reverend father, during all the days of his lifetime, the haill teinds, both parſonage and vicarage of the ſaid kirk and pariſh of K. and all other fruits, rents, emoluments and duties belonging, or which have heretofore belonged to, or have been poſſeſſed by the ſaid chancellor or quiriſter, or by the miniſters of K. as parſons or vicars of the ſaid pariſh, as likewiſe the haill title and right of the ſaid parſonage and vicarage, whether the ſame ſubſiſted in the perſon of the miniſter of K. or in the perſons of the ſaids chancellor and quiriſter, now vacant in his Majeſty's hands, and at his Highneſs's gift and diſpoſition, as undoubted patron thereof, by reaſon foreſaid, or by whatſomever other manner of way the ſame has vacate or may vake in his Majeſty's hands: *With full power* to the ſaid reverend father to intromit with, uptake and receive, not only the foreſaid modified ſtipend of the ſaid kirk and pariſh of K. formerly enjoyed by the miniſters thereof, but likeways the haill teinds, both parſonage and vicarage of the ſaid pariſh, and haill other fruits, rents, profits, duties and emoluments belonging thereto, or to the ſaid benefice of chancellor and quiriſter, from the perſons addebted and liable in payment thereof, and that of the crop and year of God One thouſand ſix hundred and eighty-two years, and yearly and termly in time coming, during all the days of his lifetime; *provided always*, that the ſaid reverend father ſerve the cure at the ſaid kirk of K. by himſelf or other qualified perſons; and that at ſuch time as his Majeſty ſhall think fit to open his ſaid chapel-royal, and that the ſame be actually made uſe of, and put in order, he furniſh with a ſuitable maintenance, ſuch able and qualified perſons as ſhall be preſented

ſented by his Majeſty to be chancellor and quiriſter, whenever he ſhall be required by his Majeſty to do the ſame; *requiring* alſo the moſt reverend father in God, the Lord archbiſhop of Glaſgow, within whoſe province the ſaid biſhopric of the iſles and pariſh of K. lies, to admit and receive the ſaid reverend father to the ſaid kirk and pariſh of K. and modified ſtipend thereof, and parſonage and vicarage of the ſame, and inſtitute, inveſt and poſſeſs him therein, by the ſymbols uſed and accuſtomed in the like caſes: *And commanding likewiſe* the Lords of his Majeſty's council and ſeſſion, to grant and direct letters of horning, upon a ſimple charge of ſix days allenarly, for cauſing the ſaid biſhop, his ſaid factors and chamberlains, and others in his name, be readily anſwered, obeyed and paid of the ſaid modified ſtipend, and teinds parſonage and vicarage of the ſaid kirk and pariſh of K. and that the ſaid gift and preſentation be further extended with all clauſes needful. Directed to the ſaid moſt reverend father in God the archbiſhop of Glaſgow. *Given at the court at Windſor-Caſtle the 30th day of Auguſt* 1682, *and of his Majeſty's reign the* 34*th year.*

Nota, Albeit archbiſhops and biſhops, (as ſuch,) have no collation or inſtitution (as ordinary miniſters,) their conſecration being ſufficient; yet, in this caſe, where the preſentation is to a particular church, that of collation and inſtitution muſt be.

WARRANT *for a Gift to the Counteſs of* K. *of the Remains of the Ship* Cormelion, *which were formerly granted to her deceaſed Husband.*

OUR SOVEREIGN LORD conſidering, that his Majeſty's gift of the date at Whitehall, the 22d day of November One thouſand ſix hundred and ſeventy years, *making mention*, That the ſhip called Cormelion, belonging to the Eaſt India Company of Holland, was caſt away upon the coaſt of Orkney or Zetland, in the time of the late Dutch war, and that albeit all goods and gear, and the whole loading of the ſaid ſhip, with the cordage, tackling, anchors, or any thing elſe belonging to the ſaid ſhip, as alſo the planks, timber, or any part of the ſame, which was or may be recovered, do, by the laws and practique of that kingdom, belong to his Majeſty; nevertheleſs, divers perſons, at their own hands, did moſt unwarrantably meddle and intromit with, and did ſteal, embezzle and carry away divers parcels and quantities of the goods and furniture within and belonging to the ſaid ſhip, and have made no accompt of the ſame; and ſeeing the impunity and advantage of ſuch perſons, (if they ſhould be ſuffered to detain and enjoy what they have ſo unlawfully gotten,) might and would be a great encouragement to them and others to adventure upon the like practices; *Therefore*, his Majeſty, with advice and conſent of the commiſſioners of his treaſury and exchequer for the time, gave, granted and diſponed to the ſaid deceaſed E. of K. his heirs and aſſignees, all and whatſoever gold and ſilver, coined and uncoined, ſtuff, cloth, and other ware and commodities, and others belonging

ing to the ſaid ſhip, except what was intromitted with by the E. of M. and transferred to the ſaid deceaſed Earl, all action competent to his Majeſty for recovering of the ſame, as the ſaid gift bears: And now his Majeſty conſidering, that there was little or no part of the ſaids goods recovered by the late Earl of K. and being willing, out of the favour he has to the family of the ſaid deceaſed E. of K. to renew the ſaid gift to dame Veronica de Areskin van Sometſdyke, Counteſs of K. *Therefore*, his Majeſty, with advice and conſent of the Lords commiſſioners of his Majeſty's treaſury and exchequer of his ancient kingdom of Scotland, has given, granted and diſponed, and, by theſe preſents, gives, grants and diſpones to the ſaid Dame Veronica de Areskin van Sometſdyke, her heirs and aſſignees, all and whatſoever gold and ſilver, coined and uncoined, ſtuff, cloth, and other wares and commodities of whatſoever kind, and all guns, cordage, tackling, anchors, planks, timber, and all other goods and furniture whatſoever, which were in, or did belong to the ſaid ſhip when the ſame was caſt away, and unrecovered by the ſaid Earl, (excepting always the gold, goods, and others within and belonging to the ſaid ſhip, which were intromitted with by W. E. of M. and was applied to his uſe, and for which there was decreet obtained againſt the ſaid Earl, at the inſtance of his Majeſty's advocate, in behalf of his Majeſty): Likeas, his Majeſty aſſigns and transfers to and in favours of the ſaid Dame Veronica de Areſkin and her foreſaids, all and whatſoever action competent to his Majeſty for the ſaid cordage, goods, and others which were within, or did belong to the ſaid ſhip, or for any part of the ſaid ſhip that was or may be recovered: *With power* to the ſaid Dame Veronica de Areſkine and her foreſaids, to purſue all and whatſoever perſons who have intromitted with the premiſſes, or any part thereof, before the judges competent, and to inquire and ſearch for the ſaids goods and others above written, wherever they can be found; ordaining and requiring his Majeſty's judges and officers to be aſſiſting to them for recovering of the ſame: And likewiſe, his Majeſty gives power and warrant to the ſaid Dame Veronica de Areſkin and her foreſaids, to uplift and recover from A. D. ſtewart of the ſtewartry of Orkney and Zetland, all and whatſoever goods and others which were within and did belong to the ſaid ſhip, and which were intromitted with by him, or for which he is and ought to be comptable, by virtue of a commiſſion granted to him by the Lords commiſſioners of his Majeſty's treaſury in Scotland for that effect, which his Majeſty declares to be from henceforth extinct and void; with power to the ſaid Dame Veronica de Areſkin and her foreſaids, to purſue the ſaid A. D. for the ſaids goods and others, which his Majeſty, by theſe preſents, doth diſpone to the ſaid Dame Veronica de Areſkin and her foreſaids, to be uplifted and applied by them for their own uſe (excepting always as is above excepted); and declaring the generality foreſaid to be as ſufficient as if all the particulars were herein expreſſed: And that theſe be extended in the beſt form, with all clauſes needful, and that the ſame paſs the privy ſeal of his Majeſty's ancient kingdom of Scotland, in the ordinary form and manner in the like caſes accuſtomed; for doing whereof theſe preſents ſhall be to all perſons who may be therein concerned, a ſufficient warrant. *Given*

at

at the court at Whitehall the 21ſt day of February 1682, and of his Majeſty's reign the 34th year.

WARRANT *for a Commiſſion to* Theodore Durie, *to be chief Conductor and Engineer of the Train of Artillery, and ſecond Engineer next to the chief Engineer, and ſecond Lieutenant of the Artillery.*

OUR SOVEREIGN LORD, with advice and conſent of his Majeſty's right truſty and entirely beloved couſin and counſellor W. D. of Q. his Majeſty's treaſurer-principal, comptroller, and collector-general of his Majeſty's new augmentations of his ancient kingdom of Scotland, and of J. E. of K. his Majeſty's treaſurer-depute, and remanent Lords of his Majeſty's exchequer; ORDAINS a letter of gift to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom, in due form, making, nominating and conſtituting, likeas his Majeſty hereby makes, nominates and conſtitutes Theodore Durie, gentleman, (of the French nation), now reſiding in Scotland, during his Majeſty's pleaſure only, chief conductor and engineer of his Majeſty's train of artillery within the ſaid kingdom of Scotland, now under the command of his Majeſty's right truſty and well beloved counſellor lieutenant-general W. D. of C. maſter of his Majeſty's ordnance of the ſaid kingdom, and likewiſe ſecond engineer next unto John Slezer his Majeſty's chief engineer to all his Majeſty's forts, caſtles, and armies within the ſaid kingdom, and ſecond lieutenant of the artillery; giving, granting and diſponing unto the ſaid Theodore Durie, the foreſaid office of chief conductor and engineer to his Majeſty's train of artillery (now vacant in his Majeſty's hands, by and through the deceaſe of ——— laſt conductor and engineer of the ſame), and likewiſe the office of the ſecond engineer (next to the ſaid John Slezer) to all his Majeſty's forts, caſtles and armies within the ſaid kingdom, as occaſion ſhall require; and for making draughts and maps of ſuch grounds, forts or caſtles as ſhall be requiſite for his Majeſty's ſervice within the ſaid kingdom; as alſo, the office of the ſecond lieutenant of the artillery, with all privileges, liberties and emoluments whatſoever belonging to the ſaids offices *reſpectivè*, and ſpecially the ſum of five ſhillings Sterling money of daily pay, to be paid unto him monthly, or quarterly, as the ſaids Lords treaſurer and treaſurer-depute ſhall find moſt expedient for his Majeſty's ſervice, as the pay and ſalary for the ſaids offices, which is hereby declared to commence and begin from the firſt day of October laſt paſt; at which time he did actually enter to his Majeſty's ſervice in the ſaids employments: And ordains the ſaid gift be paſſed under his Majeſty's privy ſeal of the ſaid kingdom, in due form, with all clauſes requiſite. *Given at the court at Whitehall, the 30th day of March 1685, and of his Majeſty's reign the 1ſt year.*

SIGNA-

SIGNATURE *of Preſentation in favours of Dr.* J. L. *ſecond Maſter and Profeſſor of Divinity in the New College of* St. Andrews, *to be Principal and firſt Maſter in the ſaid College, called* St. Mary's *College.*

OUR SOVEREIGN LORD, underſtanding that the firſt maſter, or principal place in St. Mary's college in the univerſity of St. Andrews, is now vacant in his Majeſty's hands, and become at his Highneſs's gift and preſentation, by and through the tranſportation of Dr. A. R. late principal, and firſt maſter thereof, to the ſee and biſhopric of Murray; and his Majeſty being ſufficiently informed of the loyalty, literature, qualifications, good life and converſation of Dr. J. L. ſecond maſter and profeſſor of divinity in the new college of St. Andrews, and of his fitneſs to be principal and firſt maſter in the ſaid college; *Therefore*, his Majeſty ORDAINS a letter of preſentation to be paſſed and expede under his Majeſty's privy ſeal of the ſaid kingdom of Scotland, in due and competent form, nominating, preſenting and appointing, likeas his Majeſty, by theſe preſents, nominates, preſents and appoints the ſaid Dr. J. L. to be principal and firſt maſter in the ſaid St. Mary's college, and to the haill ſtipends, fees, profits, emoluments and caſualties, and to enjoy the privileges, liberties and immunities known and accuſtomed formerly to belong, or what ſhall be found to pertain and belong to the principal, and firſt maſter in the ſaid college, and that of the crop and year of God 1688 years, and ſicklike yearly thereafter during his lifetime, and exercing as principal and firſt maſter of the ſaid college, to be bruiked, enjoyed and poſſeſſed by him, ſicklike, and as freely in all reſpects, as the ſame was or might have been enjoyed and poſſeſſed by the ſaid Dr. A. R. or any others his predeceſſors, firſt maſters of the ſaid college: *Requiring* hereby the moſt reverend father in God, Arthur by divine providence archbiſhop of St. Andrews, chancellor of the ſaid univerſity, to admit and receive him to be principal, and firſt maſter of the ſaid St. Mary's college, and to the ſaids haill privileges, emoluments, caſualties, and others above mentioned, pertaining or belonging, or what ſhall be found to pertain and belong to the ſaid principal of the ſaid college, and that for the crop and year of God above ſpecified, and yearly thereafter in time coming during his lifetime, and exercing as principal and firſt maſter in the ſaid college, and to cauſe him to give his oath for giving due canonical obedience to his ordinary: *Requiring* alſo the Lords of council and ſeſſion, on ſight hereof, to grant and direct letters of horning on a ſimple charge of ten days, and all other executorials needful, at the inſtance of the ſaid Dr. J. L. againſt all and ſundry liable and in uſe of payment of the ſaid ſtipends, fees, emoluments and caſualties, belonging and pertaining, or what ſhall be found to pertain and belong to the principal, and firſt maſter of the ſaid college, that he, his factors, ſervants, and others in his name (having power and commiſſion from him to receive and uplift the ſame) may be the more readily anſwered, obeyed and paid of the foreſaid ſtipend, benefice, fees, and others above mentioned, of the crops and years of God above expreſſed, and yearly in time coming during his

his lifetime, and exercing as principal and first master in the said college. *Given at the court at Windsor the 3d day of August 1687, and of his Majesty's reign the third year.*

WARRANT *for a Gift and Assignation of the Tack-Duty of* Orkney *and* Zetland, *to Sir* W. S. *of* S. *until paid of the sum of* 42,812 l. Scots *money, due to his Uncle Sir* W. S. *of* S. *Cash-keeper and General-receiver, after adjusting Accompts.*

OUR SOVEREIGN LORD, considering, that the commissioners authorized by commission of his Majesty's dearest royal brother King Charles the second, of ever blessed memory, under the great seal of his Majesty's ancient kingdom of Scotland, dated the fourteenth day of October One thousand six hundred and eighty-one, for auditing the accompts of the treasury, after exact calculation and due consideration of the accompts given in by the deceased Sir W. S. of S. late cash-keeper, by their declaration, approbation, and discharge written at the end of the said accompts, of the date the fourth day of January One thousand six hundred and eighty-three, did find, that the discharge did exceed the charge in the sum of one hundred and fifteen thousand four hundred and ninety-four pounds nine pennies Scots; and that the said sum, with the annualrent thereof specified in the said approbation, should be reimbursed to the said Sir W. out of the first and readiest of his Majesty's rents and duties, real and casual, or by any other manner of way his Majesty should think fitting, in regard the said Sir W. had fully and clearly instructed, and delivered up the instructions of the whole articles of the discharge of the said accompt; *and therefore*, the saids Lords, according to the warrant given them by the said commission, approved the said accompts, in so far as concerned the said Sir W. S. and exonered him thereof, and declared that to be, not only a sufficient exoneration, but also a sufficient warrant and right, whereby he might claim the foresaid balance and annualrent thereof foresaid, in manner at length mentioned in the said exoneration: And now seeing Sir W. S. of S. nephew to the deceased Sir W. S. has full and ample right from his said uncle, to all his pretensions to the said debt; and that his Majesty is graciously resolved to take the person and concerns of the said Sir W. S. of S. into his royal protection, both upon the account of his own loyalty and forwardness upon all occasions in his Majesty's service, and in consideration of the extraordinary merits and sufferings of his deceased father, who was most barbarously murdered, for his constant and firm adherence to the true interests of the crown; and also in consideration of the many faithful services rendered to his most entirely beloved royal brother aforesaid, by the said deceased Sir W. S. of S. both before and after his said late Majesty's happy restoration, with his known integrity and diligence in all his employments; his Majesty being graciously pleased and resolved to settle upon him a sure and certain

certain fund, for the ſpeedy and effectual payment unto him of the ſum of forty-two thouſand eight hundred and twelve pounds Scots money, towards his preſent relief from the preſſures of his creditors: *Therefore*, his Majeſty, (with the ſpecial advice and conſent of his Majeſty's right truſty and right well-beloved couſins and counſellors J. E. of P. Lord high chancellor of Scotland, and J. M. of A. Lord keeper of the privy ſeal, his Majeſty's right truſty and entirely beloved couſin and counſellor W. D. of H. and his right truſty and well-beloved couſins and counſellors G. V. of T. and W. V. of S. Lords commiſſioners of his Majeſty's treaſury; and alſo with advice and conſent of the Lords and others commiſſioners of his Majeſty's exchequer) ORDAINS a letter to be made and paſſed under his Majeſty's privy ſeal of the ſaid kingdom, giving, granting, aſſigning, and diſponing, likeas his Majeſty hereby gives, grants, aſſigns, and diſpones unto the ſaid Sir W. S. of S. maſter of his Majeſty's mint, his heirs and aſſignees whatſoever (ſecluding executors) all and haill the tack-duty of the iſles of Orkney and Zetland, and others thereunto belonging, as the ſame is due and payable by the preſent tackſman or tackſmen thereof, or may hereafter be due and payable by any other tackſman or tackſmen of the ſame, and that ay and until the ſaid Sir W. S. or his foreſaids, ſhall be fully and completely ſatisfied and paid of the ſaid ſum of forty-two thouſand eight hundred and twelve pounds Scots money, and intereſt thereof from the term of Candlemas laſt paſt in this preſent year of God One thouſand ſix hundred and eighty-ſix, and in time coming during the not-payment of the ſame, or any part thereof reſpectively, commencing the firſt year's payment of the ſaid tack-duty for this current year of God and crop One thouſand ſix hundred and eighty-ſix: *With full power*, warrant, and authority to the ſaid Sir W. S. and his foreſaids, to call for, uplift and receive the tack-duty aforeſaid, during the ſpace already mentioned, and thereupon to give acquittances and diſcharges, which ſhall be ſufficient to the ſaid tackſman or tackſmen, and for that effect, to uſe all lawful execution and diligence requiſite and neceſſary, ſicklike and in the ſame manner as might have been done in his Majeſty's behalf, either before the granting hereof, or the ſaid tack, and that either in his Majeſty's own name, or the names of the Lords commiſſioners of his Majeſty's treaſury, now or for the time being, or in the name of the ſaid Sir W. S. or his foreſaids: *Requiring* hereby all his Majeſty's officers and miniſters whatſoever preſent and for the time being, to be aiding and aſſiſting to the ſaid Sir W. and his foreſaids, to the effect already mentioned: *Providing always*, that the ſaid Sir W. after payment being recovered by him, or his foreſaids, of the ſaid ſum and intereſt thereof as aforeſaid (either by virtue of this gift and aſſignation, or upon any other fund that may be recovered and paid ſooner by the Lords commiſſioners of his Majeſty's treaſury) ſhall then and immediately thereafter, grant a full and ample diſcharge of the foreſaid debt, and that then, and no ſooner, this gift and aſſignation hereby diſponed unto him, ſhall of itſelf expire and become null and void. And his Majeſty ordains the ſaid letter to be further extended, in the moſt ample and beſt form, with all clauſes needful. *Given at the court at Whitehall the 12th day of November 1686, and of his Majeſty's reign the 2d year.*

TO conclude this second part of the stiles, observe in the general (as to the privy seal) that whatever relates to rents or casualties, as to a personal estate, and meaner offices (not of the crown, or eminent stations) pass the privy seal; and the King always used to have one of every trade, to serve his royal family before King James the sixth went to England, and succeeded to that crown, in the year 1603, and to this day still observed as honorary to the receivers, and as chief tradesmen, and called master-mason, master-wright, master-bower (or master-armourer) master-sclater, master-glasier, master-plumber, master-painter, master-saddler, (or upholsterer) master-gunsmith, master-farrier, master-cooper, master-taylor, master-baxter, (or master of his Majesty's pastry,) &c. to his Majesty within the kingdom of Scotland; and all these pass by way of gift under the privy seal, and each of them have a yearly salary, but seldom paid, and are per expressum *exempted from all scotting, lotting, watching, warding, quartering, cesses, taxations as to their dwelling-houses and trade, and the like; and, in effect, have acts of parliament and council conceived in their favours for that effect, and of these privileges in possession, and when troubled, have suspended, and never discussed; and the preceding forms (not further to enlarge) may be a sufficient pattern to all other gifts that may occur, and usually pass the privy seal.*

THE END OF THE SECOND PART.

SUMMONS

AGAINST

DEBITORS.

PART III.

To the Lord High Chancellor of *Scotland*, the Lord Preſident of the Seſſion, and remanent Lords, ordinary and extraordinary Senators of the College of Juſtice; *George Dallas* of *St. Martins*, Author of the whole Work, whereof this is the *third Part*, wiſheth all Tranquillity.

My Lords,

Amongſt the reſt of my dedications, when I began to perpend and ruminate, to whom I ſhould dedicate this *third part* of the whole work, conſiſting of *ſummons expede the ſignet*, and debated and judged by the Bench, I found none more proper (of ſubjects) than your Lordſhips, conſidering, that, by your education at home and abroad, ye were expert in the laws, and that, by your pleading for many years at the bar, confirmed your knowledge by experience, (the great maſter-piece of human things,) and now by both, no ſmall inducement to his ſacred Majeſty, and great intereſt of the ſubjects, to promote from the Bar to the Bench, from which the purity of your juſtice gives ſuch a luſtre to it, that in the darkeſt night the lieges, as well as the King, may walk with ſafety, and ſee in their rights and properties, without fear of ſtumbling or ſplitting upon ſhelves, far leſs the rocks of partiality and injuſtice. I know few or none ever wrote, (beſides to expoſe himſelf to the preſs,) without cenſure from ſome, (and rather critics than the more ſober ſpirits,) and I may expect no leſs; and ſhould I meet with it, am not ſingular; and only prevent them with this antidote, that in the whole work, I intend nothing more than the good of my countrymen, and leave the whole (as a ſmall memoir of myſelf,) that by their good, I may ſeem alive, even when naturally dead and interred; and if this do not ſatisfy, I uſe one argument more, that my deſign is good, and no evil in my intentions; and he that finds good by it, will, I hope, put the beſt character and conſtruction upon it. And to conclude, I put myſelf under your Lordſhip's patrociny, being moſt able and qualified, either to vindicate the ſtiles, as conſonant to law, (and materially the ancient forms,) or, wherein I may have eſcaped, palliate and overveil the ſame by your modeſty and goodneſs, and lodge it amongſt the reſt of the favours entailed, for many years, by the Bench, upon,

My Lords,

Your Lordſhips moſt humble and devoted ſervant,

GEO. DALLAS.

SUMMONS

AGAINST

DEBITORS.

PART III.

GEORGE, by the grace of God, King of Great Britain, France and Ireland, defender of the faith: To Our lovits, ——— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Foraſmuch* as it is humbly meant and ſhown to Us by A. B. merchant burgeſs of —— That where the perſons *reſpectivè* after named are addebted and reſting owing to the ſaid purſuer, for himſelf, and having right in manner after ſpecified, the goods, gear, debts, ſums of money, merchant-ware, and others after mentioned, in manner and for the cauſes under written, and of the avails, quantities, eſtimations and prices after expreſſed, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz.* (*leave blank for half a ſheet of paper.*) And albeit it be of verity, that the foreſaid goods, gear, debts, ſums of money, merchant-ware, and others above ſpecified, be as yet truly addebted and reſting owing by the ſaids defenders to the ſaid purſuer, for himſelf, and as having right, as ſaid is, and that in manner and for the cauſes above mentioned; and that he has oft and divers times deſired and required them to make payment and deliverance to him thereof, or of the avails, eſtimations and prices thereof above written, each one of them for their own parts, and according to their ſeveral proportions of the ſame, as is particularly above divided: Nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the forenamed perſons, defenders, particularly above-named, perſonally, or at their dwelling-places, on twenty-one days warning, to compear (1) before Our Lords

of.

of council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the — day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuer in the ſaid matter; *that is to ſay*, The ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, to hear and ſee themſelves decerned and ordained, by decreet of the ſaids Lords, to make payment and deliverance to the ſaid purſuer, (6) for himſelf, and as having right in manner foreſaid, of the goods, gear, debts, ſums of money, merchant-ware, and others above ſpecified, addebted and reſting owing by them to him, in manner and for the cauſes above mentioned, or of the avails, eſtimations and prices of the ſame above written, each one of them for their own parts, and according to their ſeveral proportions of the ſame, as is particularly above divided, conform to the laws and daily practique of this realm, uſed and obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification (3) to the ſaids defenders, if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid; and if the ſaids defenders fail and compear not, day and place foreſaid, that ye meſſengers at arms (the firſt diet being elapſed) of new again lawfully ſummon, warn, and charge them perſonally apprehended upon ſix days warning, to compear perſonally before Our ſaids Lords at Edinburgh, or where it ſhall happen them to be for the time, the — day of —— thereafter, in the hour of cauſe, with continuation of days, to hear and ſee all neceſſary and lawful probation led and deduced in the ſaid matter, and to give and depone their oaths of verity thereto, in ſo far as ſhall not be proven by writ or witneſſes; with certification to them, if they fail, they ſhall be holden as confeſſed, and decreet given and pronounced againſt them in the ſaid matter, according to juſtice; (4) and for the coſts and ſkaiths ſuſtained, or to be ſuſtained by the ſaid purſuer in the ſaid matter: And further, to anſwer at his inſtance therein, in ſo far as law will, making intimation and certification to the ſaids defenders as effeirs: *Attour*, that ye lawfully ſummon, warn, and charge (*here leave blank for ſix lines*) to compear before Our ſaids Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, to bear leal and ſoothfaſt witneſſing in the ſaid matter, in ſo far as they know or ſhall be aſked at them therein, under all higheſt pain and charge that after may follow, as ye will anſwer to Us thereupon: The which to do, We commit to you, conjunctly and ſeverally, Our full power, by theſe Our letters, delivering them by you duly execute and indorſed again to the bearer. *Given under Our ſignet at Edinburgh the — day of —— 17— and of Our reign the — year.*

Nota, After this, when any ſummons has a narrative, I —— begin at, *That where* brevitatis cauſa.

SUMMONS *of Mails and Duties at an Heritor's Inſtance.*

THAT where the ſaid purſuer ſtands heritably infeft and ſeiſed in all and ſundry the lands and others after ſpecified, *viz.* (*here leave blank for half a ſheet, or more, as the lands may be in number, then ſay*) as the inſtrument of ſaſine granted to him thereupon, duly regiſtered conform to the act of parliament, in itſelf more fully proports; by virtue whereof, the ſaid purſuer has ſufficient, good and undoubted right and intereſt to the ſaids lands, and others foreſaid, and in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties thereof, and he ought and ſhould be anſwered, obeyed, and paid of the ſame. *And true it is*, that the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaids lands, and others above ſpecified, with the pertinents, are addebted and reſting owing to the ſaid purſuer, the mails, farms, kains, cuſtoms, caſualties, profits and duties thereof after mentioned, yearly, the crops and years of God under written, of the avails, quantities, eſtimations and prices after rehearſed, each one of them for their own parts, and according to their ſeveral proportions, occupations and poſſeſſions of the ſame, as is particularly after divided, *viz.* (*here leave blank for half a ſheet, and then ſay*) And albeit it be of verity, that the ſaid purſuer has oft and divers times deſired and required the ſaids defenders, tenants and poſſeſſors of the ſaids lands and others foreſaid, to have made payment to him of the ſaids mails, farms, kains, cuſtoms, caſualties, profits and duties, yearly, the crops and years of God above ſpecified, or of the avails, eſtimations and prices of the ſame above mentioned, each one of them for their own parts, and according to their ſeveral proportions, occupations and poſſeſſions, in manner foreſaid, and as is particularly above divided, as ſaid is, and of the like mails, farms, kains, cuſtoms, caſualties, profits and duties yearly in all time coming, during their occupation and poſſeſſion, conform to his ſaid right and infeftment, laws and daily practique of this realm, in all points: *Nevertheleſs*, they wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the forenamed perſons, defenders, *viz.* (*leave blank for eight lines, and more, if many tenants, and then ſay*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*here take in from the* (1) *figure in the former ſummons, till ye come to the* (6) *figure, and then ſay*) of the ſaids mails, farms, kains, cuſtoms, profits and duties above ſpecified, of the lands and others above mentioned, yearly, the crops and years of God above written, or of the avails, eſtimations and prices of the ſame above rehearſed, each one of them for their own parts, and according to their ſeveral proportions, occupations and poſſeſſions thereof, as is particularly above divided; and ſicklike, of the like mails, farms, kains, cuſtoms, caſualties, profits and duties yearly in time coming, during their ſaid occupation and poſſeſſion, conform to his ſaid infeftment, laws and practique of this realm in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification (*here take in from the* (3) *figure till ye come to the* (4) *figure in the former ſummons, and then ſay*)

ſay) according to juſtice, as ye will anſwer to Us thereupon: The which to do, We commit to you, conjunctly and ſeverally, Our full power, by theſe Our letters, delivering them by you, duly execute and indorſed again to the bearer. *Given under Our ſignet at Edinburgh the — day of* ------- 17— *and of Our reign the* ----- *year.*

Nota, The reaſon why I inſert in the former ſummons, after *according to juſtice*, theſe words, *And for the coſts and ſkaiths*, &c. *and then a warrant to cite witneſſes*, is to let you ſee that was the ancient ſtile, but not ſo now, the firſt being in deſuetude by moſt writers, and the laſt by law; for now witneſſes get a ſummary charge of horning, and afterwards caption follows to make ſummary proceſs, and the ſecond diet is in place of act and letters (the ancient cuſtom of this kingdom) after the firſt ſummons was execute, but now abrogate by act of parliament.

SUMMONS *of Mails and Duties at the Inſtance of a Liferentrix.*

THAT where the ſaid purſuer ſtands infeft in liferent, during all the days of her lifetime, in all and ſundry the lands and others after ſpecified, *viz.* (*here leave a blank for the lands which are to be inſert as they are in her ſaſine, and then ſay*) as the inſtrument of ſaſine granted to her thereupon duly regiſtered, conform to the act of parliament, in itſelf more fully proports; by virtue whereof, the ſaid purſuer has ſufficient, good and undoubted right and intereſt to the ſaids lands, and others foreſaid, in liferent, during all the days of her lifetime, and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties thereof ſince the term of —— 17— years, (being the firſt term preceding her husband's deceaſe,) and yearly and termly thereafter, in all time coming during the ſaid ſpace, and ſhe ought and ſhould be anſwered, obeyed and paid thereof: And true it is, that the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaids lands, and others foreſaid, are addebted and reſting owing to her the mails, farms, kains, cuſtoms, caſualties, profits and duties thereof yearly, the crops and years of God after ſpecified, of the avails, quantities, eſtimations and prices under written, each one of them for their own parts, and according to their ſeveral proportions, occupations and poſſeſſions of the ſame, as is particularly after divided, *viz.* (*here leave blank for half a ſheet, and then ſay*) And albeit it be of verity, that the ſaid purſuer, as liferentrix foreſaid, has oft and divers times deſired and required the forenamed perſons, defenders, tenants and poſſeſſors of the ſaids lands, and others foreſaid, to have made payment to her of the ſaids mails, farms, kains, cuſtoms, caſualties, profits and duties thereof yearly, the crops and years of God above ſpecified, or of the avails, eſtimations and prices of the ſame above mentioned, each one of them for their own parts, and according to their ſeveral proportions, occupations and poſſeſſions of the ſame, as is particularly above divided; and ſicklike, of the like duties, cuſtoms and caſualties yearly in time coming during her ſaid lifetime, and

their

their ſaid occupation and poſſeſſion, conform to her ſaid right and infeftment, laws and practique of this realm in all points; nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame without they be compelled, as is alledged. Our will is herefore, and We charge you, that ye lawfully ſummon, warn and charge the forenamed perſons, defenders, particularly above named, *viz.* (*leave blank for ſix lines, and then ſay*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*here take in from the* (1) *figure in the firſt ſummons, till ye come to the* (6) *figure, and then ſay*) as liferentrix foreſaid of the mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands, and others above ſpecified yearly, the crops and years of God above mentioned, or of the avails, eſtimations and prices of the ſame above written, each one of them for their own parts, and according to their ſeveral proportions, occupations and poſſeſſions of the ſame, as is particularly above divided: *And ſicklike*, of the like mails, farms, kains, cuſtoms, caſualties, profits and duties, yearly in time coming, during her ſaid lifetime, and their poſſeſſions, after the form and tenor of her ſaid infeftment, laws and practique of this realm, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaids defenders, if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid; and, if the ſaids defenders fail, and compear not, day and place foreſaid, that ye meſſengers at arms (*here follow forth the ſecond diet as in the firſt ſummons, till ye come to* according to juſtice, *and then ſay*), as ye will anſwer to Us thereupon; *and conclude accordingly.*

Nota, Some women are, by their contract, and infeftment thereon, provided to the firſt crop after their husbands deceaſe, and others to the crop wherein their husbands deceaſe, and others to the half of that crop; and, as to theſe, the contract and infeftment muſt be the rule, and ye would libel accordingly: But, if there be no particular condeſcenſion, then the law rules it; for, if the husband deceaſe before Whitſunday, that haill crop is hers; and if after, and before the Martinmas, the half is only hers.

SUMMONS *of Mails and Duties at the Inſtance of an Appriſer or Adjudger; and if an Appriſer, libel thus:*

THAT where, by decreet and proceſs of appriſing, led and deduced within the new ſeſſion-houſe of Edinburgh, before —— meſſenger, judge and ſheriff in that part, and his colleagues, upon the —— day of —— 17— years, the ſaid purſuer obtained, lawfully appriſed to him, his heirs and aſſignees whatſoever, heritably, from A. B. of —— his heirs and ſucceſſors, and all others having or pretending to have intereſt in the matter, all and haill the lands and others after ſpecified, *viz.* (*here inſert the lands as in the appriſing, and then ſay*) with the teinds parſonage and vicarage of the ſaids lands and others foreſaid, and that for payment and ſatisfaction to the ſaid purſuer, and his foreſaids, of

the ſums of money, principal, annualrents and expences contained in the ſaid appriſing, extending, at the term therein ſpecified, to the ſum therein mentioned; and that as for the principal, and of the ſheriff-fee effeiring thereto, due to the ſaid meſſenger and his colleagues, for execution of their office in the premiſſes, conform to the act of parliament, extending to the ſum therein expreſſed, *ſalvo juſta calculo*, as the ſaid decreet and proceſs of appriſing, of the date foreſaid, ſeen and allowed by Our Lords of council and ſeſſion, and by them found orderly proceeded, in manner written on the back thereof, upon the ------- day of ------- in itſelf more fully proports; by virtue whereof, the ſaid purſuer has ſufficient, good and undoubted right and intereſt, in and to the ſaids lands and others above appriſed, with the pertinents, and in and to the mails, farms, kains, cuſtoms, caſualties, profits and duties thereof, of the crop and year of God 17--- years, and yearly ſinceſyne, and in time coming, (if the legal be not expired, and at leaſt during the not-redemption,) and he ought and ſhould be anſwered, obeyed and paid thereof: And true it is, that the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaids lands, and others foreſaid, are addebted and reſting owing to the ſaid purſuer, as appriſer foreſaid, the mails, farms, (2) kains, cuſtoms, caſualties, profits and duties of the ſaids lands, and others foreſaid, yearly, the crops and years of God after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, each one of them for their own parts, and according to their ſeveral proportions, occupations, and poſſeſſions thereof, as is particularly after divided, *viz.* (*here leave blank for a ſheet, and then ſay*) And albeit it be of verity, that the ſaid purſuer, as having right in manner foreſaid, has oft and divers times deſired and required the forenamed perſons, tenants and poſſeſſors of the ſaids lands, and others foreſaid, to have made payment to him of the ſaids mails, farms, (1) kains, cuſtoms, caſualties, profits and duties yearly, the crops and years of God particularly above ſpecified, or of the avails, eſtimations and prices of the ſame above mentioned, each one of them for their own parts, as ſaid is: *And ſicklike*, to make payment to him of the like mails, farms, kains, cuſtoms, caſualties, profits and duties yearly for the future during his right and their poſſeſſion; nevertheleſs they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the forenamed perſons, defenders, particularly above named, *viz.* (*leave blank for a quarter of a ſheet, and then ſay*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*here take in the ſtile of the firſt ſummons from the* (1) *figure till ye come to the* (6) *figure, and then ſay*) as having right by appriſing in manner foreſaid, of the ſaid haill mails, farms, (*take in the ſubſumption above written from this* (1) *figure, till ye come to* nevertheleſs, *and then ſay*) (3) conform to his ſaid decreet and proceſs of appriſing, allowance and approbation written on the back thereof, (7) laws and daily practique of this realm, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification, (*here take in the certification and ſecond diet, as in the firſt ſummons*,

ſummons, from this (3) *figure to the* (4) *figure, and then ſay,*) According to juſtice, as ye will anſwer to Us thereupon; *and conclude in common ſtile.*

Nota, If inſeftment followed upon the appriſing, then ye muſt libel that part thereof thus, before the words (*by virtue whereof*) add theſe, *And conform whereunto, and charter following thereupon under the great ſeal, containing precept of ſaſine, dated the — day of — 17— years, the ſaid purſuer was upon the — day of — 17— years, lawfully inſeſt in the ſaids lands, and others above appriſed, with the pertinents, as the ſaid charter and inſtrument of ſaſine following thereupon, duly regiſtered conform to the act of parliament, in themſelves alſo more fully is contained.*

Nota, If a ſubject be ſuperior, and not the King, then, in place of what is ſaid, libel thus, in the ſame place, *And by virtue whereof, and charter following thereupon, granted to the purſuer by —— ſuperior of the ſaids lands and others foreſaid, dated the — day of — 17— years, and containing precept of ſaſine in the end thereof, he was upon the — day of —— 17— years, lawfully inſeſt therein, and his ſaſine duly regiſtered conform to the act of parliament, as the ſaid charter and ſaſine in themſelves more fully is expreſſed.*

Nota, If ſome of the lands hold of the King, and others of ſubjects, and that both grant charters, whereupon ſaſine follows, then libel thus, curtly, at the ſame place, *And conform whereunto; and charters following thereupon under the great ſeal, as to what is holden of Us, and likeways granted by —— as ſuperiors of the remanent lands, and others holden of them, the ſaid purſuer was lawfully inſeſt in the ſaids lands, and others foreſaid, and his reſpective ſaſines thereof duly regiſtered conform to the act of parliament, as the ſaid reſpective charters and ſaſines in themſelves more fully proport:* And then proſecute the ſtile, only add at the (7) figure, *Charters and ſaſines following thereupon.*

Nota, It is like, ſome appriſers charge with horning, (the ſuperiors being ſubjects) but have not procured charters; in which caſe, before the words *by virtue whereof*, add theſe words; *Whereupon the ſaid purſuer raiſed letters of horning againſt —— ſuperiors of the ſaids lands, and others foreſaid, and by virtue thereof, cauſed —— meſſenger, upon the — day of —— 17— years, lawfully charge them to inſeſt and ſeiſe the ſaid purſuer and his foreſaids therein, and grant charters to them for that effect, containing precept of ſaſine, within the ſpace, and under the pains contained in the ſaids letters, as the ſame, and executions thereof, in themſelves more fully proport.*

Nota, In this caſe, in place of adding the former words at the (7) figure, add theſe, *Letters of horning againſt the ſuperior, and executions thereof.*

If the ſummons of mails and duties be on an adjudication, libel thus:

SUMMONS *of Mails and Duties on an Adjudication before the Lords, (in place of an Appriſing) according to the Act of Parliament.*

THAT where the ſaid purſuer, upon the — day of — 17— years, obtained a decreet of adjudication at his inſtance before Our Lords of council and ſeſſion againſt A. B. of —— and all others having or pretending to have intereſt in the matter under written, whereby the ſaids Lords adjudged, decerned and declared, all and haill the lands and others after ſpecified, *viz.* (*here take in the lands and others, as in the decreet, and then ſay*) to pertain and belong to the ſaid purſuer, his heirs and aſſignees whatſoever, heritably, for payment and ſatisfaction to them of the ſum of (*here inſert the ſums as in the de-*

creet, and then ſay) as the ſaid decreet of adjudication, of the date foreſaid, ſeen and allowed by the ſaids Lords, and by them found orderly proceeded, in manner written on the back thereof, upon the — day of — in itſelf more fully proports; (6) by virtue whereof the ſaid purſuer has ſufficient, good and undoubted right and intereſt in and to the ſaids lands and others above adjudged, with the pertinents, and in and to the mails, farms, kains, cuſtoms, caſualties, profits and duties thereof, of the crop and year of God 17— years, and yearly ſinceſyne, and in all time coming during the not-redemption, and he ought and ſhould be anſwered, obeyed and paid thereof: And true it is, that the perſons *reſpectivè* after-named, tenants and poſſeſſors of the ſaids lands and others foreſaid, are addebted and reſting owing to the ſaid purſuer, as adjudger foreſaid, the mails, farms, (*here follow forth the ſtyle of the former ſummons of mails and duties at the inſtance of an appriſer, from this figure of* (2) *till ye come to this* (3) *figure, and then ſay*) conform to the ſaid decreet of adjudication, allowance and approbation written on the back thereof, laws and daily practique of this Our realm, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification (*here take in the certification and the ſecond diet, as in the firſt ſummons, from this* (3) *figure, till ye come to the* (4) *figure, and then ſay,*) according to juſtice, as ye will be anſwerable, *in common form.*

Nota, If infeftment followed, whether the lands be holden of the king or of ſubjects, or of both, it is to be libelled as in the former directions, *mutatis mutandis.*

SUMMONS *of Mails and Duties, upon a Decreet of Adjudication at the Inſtance of a Creditor againſt the apparent Heir renouncing.*

THAT where, upon the — day of — 17— years, the ſaid purſuer obtained a decreet of adjudication at his inſtance, before the Lords of council and ſeſſion, againſt C. D. eldeſt lawful ſon to the deceaſed H. D. of —, as lawfully charged to enter heir, and who renounced to be heir to him, and his tutors and curators for their intereſts, and —— Lord high chancellor of Scotland, —— Lord high treaſurer of the ſaid kingdom, —— Lord privy ſeal, —— Lord ſecretary, —— Lord regiſter, —— Lord treaſurer-depute, —— Lord advocate, —— Lord juſtice-clerk, and —— director of the chancellary, for his Majeſty's intereſt, as to ſuch lands and others after ſpecified, as hold of Us, in manner under written, and alſo againſt —— ſuperiors of the other lands and others after mentioned, holden of them, and all others having or pretending to have intereſt in the matter under written, whereby the ſaids Lords adjudged (*here take in the decerniture of the decreet; only, if the ſame be general, relating to the narrative, ye muſt take in the lands, of whom holden, and the cauſe for which the adjudication is led, whether for payment of money, or implement of a diſpoſition, contract, or other right, as in the narrative, which is ever ſpecial,*

elſe

elſe the ſummons of adjudication is not well libelled, and then ſay) as the decreet of adjudication in itſelf more fully is contained.

Nota, 1*mo*, If infeftment follow, either holden of the king or of ſubjects ſuperiors, or if only horning followed, and execute againſt ſuperiors (that be ſubjects), to libel the ſame accordingly, as in the preceding ſtyles, and then ſubſume and conclude, as to mails and duties, as in the former ſummons of mails and duties in an adjudication, beginning at this (6) figure, with the former reference of that on an appriſing *uſque ad finem*. 2*do*, This decreet of adjudication differs from that on the act of parliament; for that on the act of parliament (coming in place of appriſings) muſt be allowed, but this againſt the apparent heir, not. 3*tio*, Some, according to the ancient cuſtom, are infeft in the lands holden of the king by a precept out of the chancellary under the quarter-ſeal, but now by ſignature expede the whole ſeals, by a new cuſtom of the exchequer; and ſo, whether the one way or other, let it be libelled.

SUMMONS *of Mails and Duties at the Inſtance of a Perſon who ſtands infeft in Lands for Security of Money, and not by way of Annualrent out of the Lands.*

THAT where A. B. of ——, by his heritable bond dated the — day of — 17— years, granted him to have borrowed and received from the ſaid purſuer, at the term of — preceding, all and haill the ſum of — uſual money of this realm; which ſum he bound and obliged him, his heirs, executors and ſucceſſors, to have contented, paid, and again delivered to the ſaid purſuer, his heirs and aſſignees (ſecluding executors), betwixt the date foreſaid of the ſaid bond, and the feaſt and term of —— 17— years, with the ſum of —— money foreſaid of liquidate expences in caſe of failzie, together with the due and ordinary annualrent and profit of the ſaid principal ſum, conform to the act of parliament, and that yearly and termly at two terms in the year, — and — by equal portions, beginning the firſt term's payment of the ſaid annualrent at the term of —, for the term immediately preceding, and ſo forth yearly and termly thereafter at the ſaid terms, and by equal portions, as ſaid is, during the not-payment of the ſaid principal ſum, with the ſum of — money above written of liquidate expences for each term's failzie, in caſe thereof, and that by and attour the ſame, and together therewith: And for the ſaid purſuer and his foreſaids their farther ſecurity, and more ſure payment of the ſaid ſums, the ſaid A. B. (but any hurt, prejudice, or derogation to the perſonal bond and obligation above ſpecified, or innovation thereof in any ſort, but in farther corroboration of the ſame, *accumulando jura juribus*) bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid purſuer and his foreſaids, heritably, in all and haill the lands of (*here inſert the lands as in the heritable bond, and then ſay*) and for that effect, to make, grant, ſubſcribe and deliver to them charters, containing precepts of ſaſine, and other ſecurities requiſite thereanent, with warrandice and under reverſion, in manner therein expreſſed; and alſo made and

conſtituted

conſtituted them his ceſſioners and aſſignees, in and to the mails, farms, (*here take in the words of the aſſignation, in manner alſo ſpecified in the ſaid bond, and then ſay*) conform whereunto, and precept of ſaſine therein contained, the ſaid purſuer was, upon the — day of — 17— years, lawfully infeft in the ſaids lands and others foreſaid, as the ſaid bond, and inſtrument of ſaſine following thereupon, duly regiſtered conform to the act of parliament, in themſelves more fully proport; by virtue whereof, the ſaid purſuer has ſufficient, good and undoubted right and intereſt, in and to the haill mails, farms, kains, cuſtoms, profits and duties of the ſaids lands and others foreſaid, of the crop and year of God 17— years, and thereafter in all time coming, at leaſt in and to ſo much thereof as will ſatisfy and pay him of the annualrent of the ſaid principal ſum, from the ſaid term of ----- 17--- years, and yearly and termly in all time coming, and of the ſaid termly penalties, if incurred, and during the not-redemption; and he ought and ſhould be anſwered, obeyed and paid thereof, by the tenants and poſſeſſors of the ſaids lands and others foreſaid. And albeit it be of verity, that the ſaid purſuer has oft and divers times deſired and required the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaids lands and others foreſaid, to have made payment to him of the ſaids mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid crop and year of God 17--- years, and yearly ſinceſyne, of the avails, quantities, eſtimations and prices after mentioned, each one of them for their own parts, and according to their ſeveral proportions and poſſeſſions of the ſame, as is particularly after divided, *viz.* (*here leave blank for half a ſheet, or more, as ye find neceſſary, and then ſay*) and ſicklike, of the like duties, cuſtoms and caſualties, yearly in time coming during the not-redemption, each one of them for their own parts, in manner foreſaid, at leaſt ſo much thereof as will ſatisfy and pay him of the ſaids annualrents and termly penalties, (if incurred as ſaid is); nevertheleſs they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the forenamed perſons, *viz.* (*leave blank for the tenants names*) tenants and poſſeſſors of the ſaids lands and others foreſaid, and ------ heritor of the ſame, for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, the ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaids defenders to hear and ſee themſelves decerned, by decreet of Our ſaids Lords of council and ſeſſion, to make payment to the ſaid purſuer, as he who ſtands infeft in manner foreſaid, of the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands and others above mentioned, of the avails, quantities, eſtimations and prices above rehearſed, and that of the ſaid crop and year of God 17--- years, and yearly ſinceſyne, and in all time coming, at leaſt of ſo much thereof as will ſatisfy and pay him the annualrent of the ſaid principal ſum ſince the ſaid term of ----- 17--- years, and yearly and termly in all time coming, with the ſaid termly penalties, if incurred, (at leaſt during the ſaid not-redemption), each one of them

them for their own parts, as ſaid is, after the form and tenor of the ſaid heritable bond, and ſaſine following thereupon, laws and daily practique of this kingdom heretofore inviolably obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to them, if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid---(*To conclude the ſecond diet, and according to juſtice, as in the former ſummons.*)

SUMMONS *of Mails and Duties on a Wadſet.*

THAT where, by contract of wadſet, made and paſſed betwixt A. B. of ----- heritable proprietor of the lands and others after ſpecified, with the pertinents, on the one part, and C. D. of ------ purſuer, on the other part, of the date the ------ day of ------ 17---- years, the ſaid A. B. (for the ſum of ------ uſual money of this realm, borrowed and received by him from the ſaid C. D. in manner therein expreſſed,) ſold, annalzied, wadſet and diſponed to the ſaid C. D. his heirs and aſſignees whatſoever, heritably, all and haill (*here leave a blank for, or rather fill up and inſert the lands according to the contract, and then ſay*) and bound and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe the ſaid C. D. and his foreſaids therein, by double infeftments and manner of holdings, to be holden with warrandice, and under reverſion, in manner therein expreſſed: *And ſicklike*, the ſaid A. B. made and conſtitute the ſaid C. D. and his foreſaids, his very lawful, undoubted and irrevokable ceſſioners and aſſignees, in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaids lands and others foreſaid, and all tacks and rights of the teinds thereof, and that of the crop and year of God 17---- years, and yearly thereafter in all time coming during the not-redemption, and all action, purſuit and inſtance competent, or that may be competent thereupon for ever, in manner more fully ſpecified in the ſaid contract of wadſet, conform whereunto (4) and precept of ſaſine therein contained, the ſaid purſuer was, upon the ------ day of ----- lawfully infeft in the ſaids lands and others foreſaid, as the ſaid contract (5) and inſtruments of ſaſine following thereupon, duly regiſtered, conform to the act of parliament, in themſelves more fully is contained; by virtue whereof, the ſaid purſuer has ſufficient, good and undoubted right and intereſt, in and to the haill mills, farms, kains, cuſtoms, caſualties, profits and duties of the ſaids lands, teinds and others above diſponed and aſſigned, and wadſet in manner foreſaid, of the crop and year of God 17----- years, and yearly ſinceſyne, and in all time coming during the ſaid not-redemption, and he ought and ſhould be anſwered, obeyed and paid thereof: And true it is, that the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaids lands, teinds and others foreſaid, are addebted and reſting owing to the ſaid purſuer, as wadſetter, and having right as ſaid is, the mails, farms (*to libel, ſubſume, and conclude, according to the former ſummons of mails and duties, at the inſtance*

inſtance of an appriſer, page 5th, *beginning at this* (2) *figure, and ſo downward, until ye come to the* (3) *figure, and then ſay*) conform to the ſaid contract of wadſet, precept of ſaſine therein contained, inſtrument of ſaſine following thereupon, laws and daily practique of this realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification, (*as in the ſummons againſt debitors, page 1ſt, and then take in the ſecond diet in common form, and then*) according to juſtice, as ye will anſwer, *&c.*

Nota. If the purſuer was not infeft by virtue of the precept of ſaſine contained in the contract, but by virtue of a charter following thereupon, then after this (4) figure add, *and charter following thereupon*; and at this (5) figure, add *charter*; and if the right be confirmed by the King, or other ſuperior, add theſe words, (before *by virtue whereof*) *and which contract, charter and ſaſine was duly confirmed by Us as ſuperior* (*if ſo*) *under Our great ſeal, of the date the —— day of —— 17—— years*; and if holden of a ſubject, and was confirmed, ſay, *by —— ſuperior thereof, conform to the charter granted by him thereanent, of the date the —— day of —— 17—— years.*

SUMMONS *of Mails and Duties at the Inſtance of a Perſon infeft for Relief of Cautionry and Engagements, for which he is diſtreſſed.*

THAT where C. D. of —— by his bond dated the ------day of -----17---- years, *making mention*, That foraſmuch as he, as principal, and the ſaid purſuer, as cautioner for him, by their bond dated the ----- day of ----- 17---- years foreſaid, bound and obliged them, conjunctly and ſeverally, their heirs, executors and ſucceſſors, to have contented, paid and delivered to G. D. of ---- his heirs and aſſignees, (ſecluding executors,) all and haill the ſum of ----- uſual money of this realm, as principal, with the annualrent thereof, from the terms of ----- preceding, to the term of payment under written, and that betwixt and the term of ----- then next to come, with the ſum of ----- money foreſaid of liquidate expences in caſe of failzie, together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually during the not-payment thereof after the ſaid term; and that the ſaid C. D. bound and obliged him and his foreſaids, to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid purſuer, his cautioner and his foreſaids of the ſaid cautionry, and of all coſt, ſkaith, damage, intereſt, charges and expences they ſhould happen to ſuſtain or incur therethrough any manner of way thereafter in time coming, and ſubſuming that the ſaid C. D. being moſt willing that the ſaid purſuer and his foreſaids ſhould be further ſecured anent their ſaid relief; *Therefore*, (and but any hurt, prejudice or derogation to the clauſe of relief contained in the ſaid firſt bond or innovation thereof in any ſort: But, in further corroboration of the ſame, *accumulando jura juribus*,) the ſaid C. D. faithfully bound and obliged him and his foreſaids, not only to warrant and relieve, as ſaid

is,

is, as well not distressed as distressed, but also duly and sufficiently to infeft and seise the said pursuer and his foresaids heritably, in all and haill the (*here insert the haill lands as in the heritable bond of relief, and then say*) and that by double infeftments and manner of holdings, to be holden with warrandice, and under reversion, in manner therein specified, and to make, grant, subscribe and deliver to them all rights and securities requisite thereanent, and likewise assigned them to the mails, farms, kains, customs, casualties, profits and duties of the saids lands, and others foresaid, and right of the teind thereof, and that yearly and termly thereafter, in all time coming during the not-redemption, in manner specified in the said heritable bond of relief; conform whereunto, and precept of sasine therein contained, the said pursuer was, upon the ----- day of ----- 17 ----- years, lawfully infeft in the saids lands and others foresaid, as the said heritable bond of relief, and instrument of sasine following thereupon, duly registered conform to the act of parliament, in themselves more fully is contained: And true it is, that the foresaid bond wherein the pursuer was cautioner, was not only registered in the books of council and session, upon the ----- day of ----- 17 ----- years, but also there was letters of horning raised thereupon, and the pursuer charged as cautioner, by virtue thereof, to make payment of the debt, as the charge given to him by —— messenger likewise proports, wherethrough there is nothing more clear and apparent, than the pursuer's distress, in default of the said principal party, who did not pay the debt to the lawful creditor at the term appointed, and so, in all law, equity and justice, the foresaid infeftment of relief doth now accresce, and ought and should become effectual to the pursuer and his foresaids, towards their relief and liberation of the said cautionry: And albeit it be of verity, that the said pursuer be distressed, as said is, and that he has oft and divers times desired and required the persons *respectivè* after named, tenants, possessors and occupiers of the saids lands and others foresaid, wherein the pursuer stands infeft, and to which he has right for his relief, as said is, to make payment to him of the haill mails, farms (6) kains, customs, casualties, profits and duties thereof yearly, the crops and years of God after specified, of the avails, quantities, estimations and prices after mentioned, each one of them for their own parts, and according to their several proportions of the same, as is particularly after divided, *viz.* (*here leave blank for half a sheet or more, as shall be necessary:*) *And sicklike*, of the like mails, farms, kains, customs, casualties, profits and duties yearly in time coming, during the pursuer's right and their possession, conform to his said right and infeftment of relief, distress foresaid following upon his said cautionry, laws and daily practique of this Our realm, used and observed in the like cases, in all points: (7) Nevertheless, they wrongously refuse, postpone and defer to do the same, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn and charge the forenamed persons, defenders, particularly above named, *viz.* (*leave blank for the tenants names*) tenants and possessors of the saids lands, and others foresaid, and and the said C. D. their master, and heritor of the saids lands, for their interest, personally, or at their dwelling-places, on twenty-one days warning, to compear

(*follow forth the common ſtile till ye come to*) to anſwer at the inſtance of the ſaid purſuer in the ſaid matter; *that is to ſay*, the ſaids defenders to hear and ſee the premiſſes ſufficiently verified, and proven to be of verity; and the ſame being ſo verified and proven, the forenamed perſons, tenants and poſſeſſors of the ſaids lands and others foreſaid, to hear and ſee themſelves decerned, by decreet of Our ſaids Lords of council and ſeſſion, to make payment to the ſaid purſuer, as he who ſtands infeft for his relief, and now diſtreſſed for the debt, in manner foreſaid, of the haill mails, farms (*to conclude according to the ſubſumption from this figure of* (6) *till the figure* (7); *only ſay for* after ſpecified, above ſpecified, *for* after mentioned, above mentioned, *and for* after divided, above divided, or elſe to alledge a reaſonable cauſe; *to conclude this of the certification and ſecond diet like an ordinary ſummons; and then*, According to juſtice, as ye will anſwer, *&c.*

Nota, If the cautioner muſt pay the debt, and that the creditor be ſo juſt as to diſcharge the cautioner, and aſſign for his relief againſt the principal party, and his repreſentatives, then the cautioner, *qua* aſſignee, has not only all the diligence already uſed, conveyed to him by the creditor, but may uſe what further requiſite, whether perſonal or real; but in caſe there be an impediment by a more preferable diligence or right betwixt the infeftment of relief and the payment of the debt by the cautioner, then it is better to adhere to the firſt, which, after diſtreſs, accreſces to the cautioner; only theſe doubts occur: 1. If an appriſer or adjudger be infeft publicly in the land, (even after the infeftment of relief not confirmed,) which of the two will be preferred? 2. In caſe the cautioner, without diſtreſs, paid annualrent, will that make the infeftment of relief public? 3. If the principal party paid annualrent, and not the cautioner, will the cautioner have the benefit thereof, ſo as to make his ſaſine public by the principal's deed, being a favourable caſe, and in effect that payment, but the effect of the clauſe of relief conceived in favours of the cautioner?—But, to put matters out of queſtion, to confirm, (if the debt be conſiderable,) is the beſt of it.

Nota, If the cautioner not only be diſtreſſed, but actually has paid and is diſcharged (whether he get an aſſignation or not againſt the principal,) it muſt be ſo libelled; for a diſcharge or aſſignation are of the ſame import to the cautioner, and a ſufficient ground to proſecute his relief, albeit the aſſignation be a more immediate title to charge the principal party.

SUMMONS *of Poinding of the Ground, at the Inſtance of a Liferentrix, for her Annuity out of the Lands mentioned in her Infeftment.*

THAT where the ſaid purſuer ſtands infeft in liferent, during all the days of her lifetime, in all and haill an annuity of ------ uſual money of this realm, yearly, to be uplifted and taken at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, forth of all and haill the lands of —— lying within the pariſh of ------ and ſheriffdom of ----- or forth of any part or portion thereof, and readieſt mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame, beginning the firſt term's payment thereof at the firſt term of Whitſunday or Martinmas next and immediately following her

ſaid

ſaid huſband his deceaſe, and that for the term immediately preceding, and ſo forth yearly and termly thereafter at the ſaid terms, and by equal portions, in manner foreſaid, during her ſaid lifetime, as the inſtrument of ſaſine granted to her thereupon, duly regiſtered conform to the act of parliament, in itſelf more fully proports: And albeit it be of verity, that the ſaid ------ her huſband, died upon the ---- of ------ 17---- years, and that therethrough, and conform to her ſaid infeftment, the foreſaid annuity is due to her ſince the term of ----- (being the term immediately preceding his deceaſe) and that the ſaid purſuer has oft and divers times deſired and required (*here leave blank for a quarter of a ſheet*) tenants, poſſeſſors, occupiers of the ſaids lands, and others foreſaid, out of which the ſaid annuity is due and upliftable, as ſaid is, and H. D. now of ------ eldeſt lawful ſon and apparent heir to the ſaid deceaſed ------ and heritor of the ſame, for his intereſt, to have made payment to her of the ſaid annuity yearly ſince the ſaid term of ----- 17---- years; and ſicklike yearly and termly in all time coming during her ſaid lifetime: Nevertheleſs, they not only wrongouſly refuſe, poſtpone and defer to do the ſame, but alſo they, in manifeſt defraud, hurt and prejudice of her thereanent, will not ſuffer and allow her to poind the ground therefor, after the form and tenor of her ſaid infeftment, laws and daily practique of this Our realm, uſed and obſerved in the like caſes in all points, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the forenamed perſons, tenants and poſſeſſors of the ſaids lands, and others foreſaid, and the ſaid H. D. heritor of the ſaids lands, for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*here follow forth the ordinary ſtile till ye come to*) to anſwer at the inſtance of the ſaid purſuer in the ſaid matter; *that is to ſay*, The ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity, and the ſame being ſo verified and proven, the ſaids defenders to hear and ſee Our other letters ordained by decreet of Our ſaids Lords of council and ſeſſion, to be directed at the inſtance of the ſaid purſuer againſt the ſaids defenders, to meſſengers at arms, Our ſheriffs in that part, charging them, conjunctly and ſeverally, to paſs, and in Our name and authority, ſearch, ſeek, fence, arreſt, apprize, compel, poind, and diſtrinzie the readieſt moveable goods and gear whatſoever, being, or that hereafter ſhall happen to be upon the ground of the ſaids lands, and others foreſaid, and to make penny thereof; and failing of moveable goods and gear poindable, to apprize or adjudge the ground-right and property of the ſaids lands and others foreſaid, conform to the act of parliament, to the avail and quantity of the ſaid annuity of —— money foreſaid, and that yearly and termly ſince the ſaid term of —— 17---- years, and in all time coming, during the purſuer's lifetime, and make her completely ſatisfied and paid of the ſame (the terms of payment thereof being firſt come and bygone) after the form and tenor of the ſaid infeftment, laws and daily practique of this Our realm, uſed and obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaids defenders, if they fail, Our

ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid: According to juſtice, as ye will anſwer, *&c.*

Nota, Since the firſt term of payment has its commencement from the term immediately preceding the huſband's deceaſe, ſo that there is a neceſſity the time of the deceaſe be proven: Therefore, if the defunct's teſtament be not confirmed, which proves the time of the death, there muſt be a ſecond diet in the ſummons in common form, and witneſſes muſt be cited and led to prove the ſame; and in that caſe alſo, the ſummons muſt be directed to ſheriffs in that part, and meſſengers *reſpective*; whereas, if the death were proven by writ, it is only directed to ſheriffs in that part, without neceſſity of a ſecond diet.

SUMMONS *of Poinding of the Ground at a Liferentrix's Inſtance, for an Annuity of Victual, conform to her Infeftment, concluding alſo a Liquidation of the ſame to a Price, in caſe Corns be removed invidiouſly off the Ground to another Ground belonging to the ſame, or other Heritors; and likeways concluding Payment.*

THAT where the ſaid purſuer ſtands duly and lawfully infeft in liferent, during all the days of her lifetime, in all and haill an annity of —— chalders victual, two part bear, and third part oat-meal, all ſufficient ſtuff, clean and well dighted, and of the meaſure of —— yearly to be uplifted and taken betwixt Youl and Candlemas, forth of all and haill the lands and others after ſpecified, *viz. (here inſert the lands as they are in the purſuer's ſaſine)* lying within the pariſh of —— and ſheriffdom of —— beginning the firſt year's payment of her ſaid annuity of the firſt *(here inſert the year and term, as in the ſaſine)* and ſo forth yearly thereafter betwixt Youl and Candlemas, during all the days of her ſaid lifetime, as the inſtrument of ſaſine granted to her thereupon, duly regiſtered conform to the act of parliament, in itſelf more fully is contained. And true it is, that the purſuer's huſband departed this life upon the —— day of —— 17---- years, wherethrough, and by virtue of the ſaid infeftment, ſhe has ſufficient, good and undoubted right and intereſt in and to the ſaid annuity of the haill crop and year of God 17---- years, and yearly ſinſyne, and in all time coming during her ſaid lifetime; and ſhe ought and ſhould be anſwered, obeyed, and paid of the ſame: And yet, notwithſtanding thereof, the perſons *reſpective* after named, *viz. (here leave blank for a quarter of a ſheet)* tenants and poſſeſſors of the ſaid lands, and others foreſaid, and H. D. now of —— ſon and heir, at leaſt apparent heir to the deceaſed —— the purſuer's huſband, not only wrongouſly refuſe, poſtpone and defer to make payment to her of the ſaid annuity, the foreſaid crop and year, and yearly ſinſyne, and in all time coming during her ſaid lifetime, but alſo will not ſuffer and allow the ground to be poinded therefor yearly, conform to her ſaid infeftment, laws and practique of this Our realm heretofore inviolably obſerved in the like caſes, but, on the contrary, they,

in

in manifeſt defraud, hurt and prejudice of her thereanent, immediately after the corns are ſhorn, and for leading, they lead and carry away the ſame from off the ground whereon they grow, and wherein the purſuer ſtands infeft for her annuity, in manner foreſaid, to the lands of —— and other lands adjacent, wherein ſhe ſtands not infeft, and ſo cannot poind that ground therefor, to her great hurt and prejudice, as ſaid is, without remeid be provided thereto: And therefore, neceſſary it is for the purſuer to have ſummons of poinding of the ground, concluding alſo a liquidation of the ſaid victual to a reaſonable value and price yearly, during the abſtraction of the *ipſa corpora* of the ground; and likeways concluding payment, and that in manner, in the terms, and to the effect after ſpecified, as is alledged. *Our will is therefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid —— tenants and poſſeſſors of the ſaids lands and others foreſaid, and the ſaid H. D. heritor thereof, and their maſter for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*as in the former ſtyles, till ye come to*) to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and being ſo verified and proven, to hear and ſee Our other letters ordained, by decreet of Our ſaids Lords of council and ſeſſion, to be directed at the inſtance of the ſaid purſuer againſt the ſaids defenders, and that to meſſengers at arms, Our ſheriffs in that part, charging them, conjunctly and ſeverally, to paſs, and in Our name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind and diſtrinzie the readieſt bear and oat-meal, at two part and third, as ſaid is, (2) being, or that ſhall happen to be upon the ground of the ſaids lands and others foreſaid, or that ſhall happen to grow thereupon, and led and carried after ſhearing, to whatſoever part or place out-with the ſame, in manner foreſaid, and make the ſaid purſuer completely paid thereof, and that of the ſaid crop and year of God 17--- years, and yearly ſinceſyne, and in time coming during her ſaid lifetime; and in caſe the ſaid corns be led and abſtracted, or otherwiſe conveyed, ſo that the ſame cannot be got poinded towards her payment, as ſaid is, to hear and ſee the ſaid victual, of the quality foreſaid, liquidated by Our ſaids Lords their decreet, to ſuch rates and prices as the ſaids Lords ſhall think fit, yearly, during any ſuch abſtraction of the *ipſa corpora* of the ground of the ſaids lands and others foreſaid, (out of which her annuity is payable, in manner above ſpecified); and being ſo liquidated, to hear and ſee Our ſaids other letters ordained to be directed to the ſaids meſſengers, as ſheriffs in that part, conjunctly and ſeverally, as ſaid is; charging them to paſs, and in Our name and authority ſearch, ſeek, fence, arreſt, appriſe, compel, poind and diſtrinzie, not only all the readieſt corns being, or that ſhall happen to be on the ground of the ſaids lands and others foreſaid, with the pertinents, but alſo, when corns are abſtracted or defective, the haill other moveable goods and gear, being, or that ſhall happen to be on the ſaid ground, yearly during any ſuch defect, to the avail and quantity of the ſaid annuity, and what ſo defective in manner foreſaid, and at the rates above ſpecified, whereunto the ſaid victual ſhall be liquidated by the ſaids Lords, as ſaid is,

and

and to make penny of the ſaid other goods, and the ſaid purſuer completely paid of her ſaid annuity in victual or money yearly, according to the ſaid quantity and quality, at the ſaid rate; and failing of victual, or other goods, for her payment, to appriſe or adjudge the ground-right and property of the ſaids lands and others foreſaid, conform to the act of parliament, to the ſaid quantity and avail, and at the ſaid rate, and that for payment and ſatisfaction to her of the ſaid annuity of the crop and year of God above mentioned, and alſo yearly ſinceſyne, and in all time coming during her ſaid lifetime; and the defenders, as unjuſt abſtractors of the corns off the ground, wherein ſhe ſtands infeft, decerned to make payment to her thereof, or rates and prices above mentioned, bygones and in time coming, at leaſt during any ſuch abſtraction, and amotation of the corns and other goods poindable from off the ground where ſhe ſtands infeft, after the form and tenor of her ſaid infeftment, laws and daily practique of this Our realm, heretofore inviolably uſed and obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe—(*To conclude as in the former ſummons.*)

The former *nota* is to be obſerved.

SUMMONS *at the inſtance of an Executor, and having Licence to purſue.*

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by M. A. relict of the deceaſed C. D. and executor lawfully decerned and confirmed to him, and having licence to purſue from the commiſſaries of ——, and within whoſe juriſdiction her ſaid huſband deceaſed, That where the perſons *reſpectivè* after named were addebted and reſting owing to the ſaid defunct, the time of his deceaſe, (which was upon the --- day of —— 17--- years) the goods, gear, debts, ſums of money, merchant-ware, and others after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, in manner and for the cauſes under written, each one of them for their own parts, and according to their ſeveral proportions of the ſame, as is particularly after divided, *viz.* (*leave blank for a ſheet*). And albeit it be of verity, that the ſaid purſuer, as executrix, and having licence to purſue in manner foreſaid, has oft and divers times deſired and required the forenamed perſons, defenders, particularly above named, to have made payment to her of the ſaids goods, gear, debts, ſums of money, merchant ware, and others above ſpecified, addebted and reſting owing by them to the ſaid defunct, in manner and for the cauſes above mentioned, or of the avails, eſtimations and prices of the ſame above written, each one of them for their own parts, and according to their ſeveral proportions of the ſame, as is particularly above divided; and alſo, to make payment to her of the due and ordinary annualrent of ſo many of the ſaid ſums as bear annualrent, as ſaid is, of all years and terms bygone

bygone reſting owing unpaid, and ſicklike yearly and termly in time coming during the not-payment thereof, the terms of payment of the ſame being always firſt come and bygone, conform to the laws and daily practique of this Our realm uſed and obſerved in the like caſes in all points; nevertheleſs, they wrongouſly refuſed, and as yet refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the fore-named perſons, defenders, particularly above named, *viz.* (*leave blank for their names*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*as in the ordinary ſtyle, till ye come to*) to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, to hear and ſee themſelves decerned and ordained, by decreet of Our ſaids Lords of council and ſeſſion, to make payment to the ſaid purſuer, as executrix foreſaid, and having licence to purſue, as ſaid is, of the foreſaid goods, gear, (*to conclude* ut ſupra, *from this* (6) *figure, till ye come to* nevertheleſs, *and then ſay*) or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaids defenders, if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid (*to inſert a ſecond diet in common form, and then ſay*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *at the Inſtance of a Perſon who is Heir and Executor, and has Licence to purſue, and otherways has Right, and probably by an Aſſignation not intimated.*

GEORGE, &c. To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by G. D. ſon and heir ſerved and retoured to the deceaſed C. D. and executor lawfully confirmed to him, and alſo having licence to purſue from the commiſſaries of ——, within whoſe commiſſariot his ſaid father deceaſed, and otherways having right in manner after mentioned, That where the perſons *reſpectivè* after named, are addebted and reſting owing to the ſaid purſuer, as heir and executor foreſaid, and having licence to purſue, and likewiſe as having otherways right in manner after mentioned, the goods, gear, (*after this follow forth the ſtyle of the ſummons immediately preceding, with theſe alterations*; Primo, *Whereas the former bears*, as executrix, and having licenſe to purſue, *ſay in this*) as heir, executor, having licenſe to purſue, and otherways having right, as ſaid is. *Secundo*, In place of *her*, ſay *him*.

SUMMONS

SUMMONS *of Removing at the Inſtance of an Heritor.*

GEORGE, *&c.* To Our lovits, —— Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Foraſmuchas, it is humbly meant and ſhown to Us by A. B. heritable proprietor of the lands and others after ſpecified, with the pertinents, That where, upon the —— day of —— 17 —— years, the ſaid purſuer was heritably infeft and ſeiſed in all and haill, (*here inſert the lands as in the ſaſine,*) lying within —— as the inſtrument of ſaſine granted to him thereupon, duly regiſtered conform to the act of parliament, in itſelf more fully proports, conform whereunto, and alſo by virtue of a precept of warning ſubſcribed by the purſuer thereanent, he, forty days before the feaſt and term of Whitſunday laſt bypaſt, cauſed lawfully warn, (conform to the act of parliament,) the perſons *reſpectivè* after named, tenants, poſſeſſors and occupiers of the lands and others after mentioned, *viz.* (*leave blank for half a ſheet,*) to flit and remove themſelves, their wives, bairns, men-tenants, ſervants, cottars, and dependers, goods and gear, forth and from the ſaids lands, and others foreſaid, and to leave the ſame void and redd at the ſaid term of Whitſunday laſt, to the effect the ſaid purſuer by himſelf, his men-tenants and ſervants, might then enter thereto, and peaceably poſſeſs, labour, manure, bruik and enjoy the ſame, and uſe and diſpoſe thereupon, as the purſuer's lands and heritage, at his pleaſure thereafter in time coming, conform to his right and infeftments in all points, as the precept of warning ſubſcribed thereanent, and executions thereof, in themſelves alſo more fully is contained: And albeit it be of verity, that the ſaid term of Whitſunday be now paſſed, and that the ſaid purſuer has oft and divers times deſired and required the ſaids defenders to flit and remove themſelves (6) and their foreſaids, forth and from the ſaids lands and others above ſpecified, and to leave the ſame void and redd, to the effect above mentioned, after the form and tenor of the ſaid purſuer's infeftment, precept of warning, executions thereof, and act of parliament made anent warning of tenants to remove from lands, laws and daily practique of this realm, uſed and obſerved in the like caſes, in all points; nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the forenamed perſons defenders, tenants, poſſeſſors and occupiers of the ſaids lands and others foreſaid, perſonally, or at their dwelling-places, on ſix days warning, to compear, (*as in the former ſummons, till ye come to*) to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaids defenders to hear and ſee themſelves decerned by decreet of the ſaids Lords, to flit and remove themſelves, (*to conclude* ut ſupra *from the figure* (6) *till ye come to* nevertheleſs, *and then ſay*) or elſe to alledge a reaſonable cauſe, *&c.* (*No ſecond diet, becauſe all is inſtructed by writ.*)

Ex Deliberatione Dominorum Concilii.

SUMMONS

SUMMONS *of Ejection and Intruſion, including Damage.*

GEORGE, *&c.* To Our lovits ----- Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn and charge (*leave blank for ſix lines*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*as in the former ſtiles, till ye come to*) to anſwer at the inſtance of A. B. of ——, in the matter under written; *that is to ſay*, The ſaids defenders, for their wrongous, violent and maſterful coming, by themſelves, their ſervants, complices, and others in their names, of their cauſing, ſending, hounding out, command, refet, aſſiſtance and ratihabition, upon the —— day of —— 17---- years, to the lands of ----- lying within the pariſh of ----- and ſheriffdom of ----- (6) pertaining heritably to the ſaid purſuer, at leaſt then in his own and tenants poſſeſſion by a liferent-right, tack or otherwiſe, and labouring of the ſame, and paſturing of their cattle and goods thereupon, and doing other deeds of poſſeſſion uſual and ordinary, and there, in the wrongous, violent and maſterful ejecting the ſaid purſuer and his family, tenants, goods and gear forth thereof, and intruding themſelves therein, and poſſeſſion of the ſame, by themſelves and others, as their tenants and ſervants, and alſo in the wrongous, violent and maſterful maintaining and continuing their ſaid violent poſſeſſion ever ſince, now by the ſpace of ----- wherethrough they have not only encroached upon the purſuer's right and poſſeſſion, and intend to appropriate the ſame to themſelves as heritage for the future, contrary to all law, equity and reaſon, but alſo have kept up the duties, profits and caſualties thereof yearly, and likewiſe otherwiſe damnified and prejudged the purſuer and his tenants in the ſum of ----- over and above, extending in the haill to ----- conform to a particular accompt thereof apart (here holden as repeated, *brevitatis cauſa*;) and therefore, to hear and ſee it found and declared, that they have done wrong in the foreſaid ejection and intruſion; and the ſame being ſo found and declared, the ſaids defenders to hear and ſee themſelves decerned to repone and reſtore the ſaid purſuer and his tenants, to their right and poſſeſſion of the ſaids lands and others foreſaid, and in the ſame ſtate and condition as before the ſaid ejection and intruſion, and not to trouble or moleſt them therein for the future otherwiſe, nor by order of law and juſtice; and ſicklike, to make payment to them of the ſaids mails, profits and duties yearly, ſince the ſaid ejection and intruſion, and in time coming, ay and while they be repoſſeſſed and reponed, as ſaid is; and likewiſe to make payment to the ſaid purſuer and his tenants, of the foreſaid ſum of ----- wherein they have been damnified and prejudged, in manner foreſaid, conform to the laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to them if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid, (*to inſert a ſecond diet in common form, and then ſay*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of Ejection, Intruſion and Spuilziation.*

GEORGE, *&c. (to write the ſtile of the former ſummons, till ye come to this* (6) *figure; only, where a ſpuilzie is conjoined with ejection and intruſion, it is fit the tenants as well as the maſter be purſuers, and then ſay)* pertaining heritably, or in wadſet, or otherwiſe to the ſaid A. B. one of the purſuers, and in their poſſeſſion, by labouring and ſowing of the ground, and dwelling and paſturing thereupon, and doing all other deeds of property and commonty requiſite within the ſame; and there, in the wrongous, violent, and maſterful ejecting the ſaid purſuer and his family, and his ſaids tenants, and their corns, cattle, goods and gear forth thereof, and intruding themſelves therein, and poſſeſſion of the ſame, and likewiſe by themſelves and their foreſaids, of their cauſing and command, as ſaid is, in the wrongous, violent and maſterful ſpuilziation from the ſaids purſuers, of the corns, cattle, horſe, nolt, ſheep, goats, inſight, pleniſhing, and other goods and gear after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, *viz.* (*here leave blank for a ſheet*) and ejection and ſpuilziation of the ſaids purſuers therethrough, and of their poſſeſſion thereof, the ſaids lands, with the pertinents, then pertaining heritably, at leaſt in wadſet, tack, or otherwiſe, to the ſaids purſuers, and being in their poſſeſſion, by labouring of the ſame, dwelling thereupon, paſturage thereon, and otherwiſe; and the ſaids goods, gear, horſe, nolt, ſheep, goats, pleniſhing, and others foreſaid, being then in their poſſeſſion, by making uſe of the ſaid pleniſhing, tilling and labouring with the ſaid cattle and goods, and doing all other deeds of poſſeſſion uſual and neceſſary, and that for ſeveral years, at leaſt months or days preceding the ſaid ejection, intruſion and ſpuilziation: And in like manner, in the wrongous, violent, and maſterful keeping, detaining, and as yet withholding of the ſame lands and goods, together with the duties, caſualties, ſervices, and the excreſcent profits of the ſaids lands and goods under written from them, continually ſince the time above ſpecified of the ſaid ejection, intruſion and ſpuilziation, now by the ſpace of——, extending the ſaids duties, ſervices and excreſcent profits yearly and each year, daily and each day (in milkneſs, work, hire-gang and otherwiſe,) to the avails, quantities, eſtimations and prices after mentioned, *viz.* (*leave blank for another ſheet*) and which duties, ſervices, caſualties, prices and excreſcent profits, the ſaids lands, goods, gear, and others foreſaid, were worth, and would have given and yielded to the ſaids purſuers, had not they been violently ejected and ſpuilzied, as ſaid is, but had been ſuffered to continue in their ſaid poſſeſſion of the ſaids lands, goods and gear as formerly; and therefore, the ſaids defenders to hear and ſee it found and declared, by decreet of Our ſaids Lords of council and ſeſſion, that they have done wrong in the foreſaid wrongous, violent and maſterful ejection, intruſion, ſpuilziation and detention; and the ſame being ſo found and declared, the ſaids defenders to hear and ſee themſelves decerned to reſtore and repone the ſaids purſuers to their rights and poſſeſſion of the ſaids lands, goods, and others foreſaid, and in the ſame ſtate and condition as before

fore the ſaid ejection and intruſion, and not to trouble or moleſt them therein for the future otherwiſe, nor by order of law and juſtice: And ſicklike, to make payment to the ſaid A. B. of the mails, profits and duties above ſpecified, of the ſaids lands and others foreſaid, or avails, eſtimations and prices of the ſame above mentioned, yearly, ſince the ſaid ejection and intruſion, and in time coming, ay and while they be repoſſeſſed and reponed in manner foreſaid; and in like manner, to reſtore to the ſaids purſuers the foreſaid goods, gear, pleniſhing, horſe, nolt, ſheep, goats, and others above ſpecified, upon the ground and place forth of which they were wrongouſly ſpuilzied and away-taken, as ſaid is, and in as good caſe and condition as they were the time above mentioned of the ſaid ſpuilziation, or elſe to make payment to them of the avails, eſtimations and prices of the ſame above written, together with the excreſcent profits thereof above rehearſed, or avails and prices thereof above written, and that yearly and each year, daily and each day, ſince the time foreſaid of the ſaid ſpuilziation, and in all time coming during the not-reſtoration or payment of the ſaid prices, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe (*as in the former ſummons, with a ſecond diet*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of Spuilzie.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpective*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn, and charge (*here leave blank for ſix lines*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*as in the preceding ſummons, till ye come to*) to anſwer at the inſtance of A. B. of —— againſt whom, and to whoſe great hurt and prejudice the ſpuilzie after ſpecified was violently and moſt illegally committed, in manner, and at the time after mentioned, and thereby having ſufficient, good and undoubted right and intereſt to purſue the action of ſpuilziation under written, in manner after rehearſed; *That is to ſay*, The ſaids defenders, for the wrongous, violent, and maſterful coming, by themſelves, their men-tenants, ſervants, and others in their names, of their cauſing, ſending, and hounding out, in the month of —— 17--- years, and on one or other of the days of the ſaid month, to the ground of the lands of —— lying within the pariſh of —— and ſheriffdom of —— and there, in the wrongous, violent and maſterful ſpuilziation, intromitting with, and away-taking from the ſaid purſuer off the ground of the ſaid lands, of the corns, cattle, horſe, nolt, ſheep, cows, oxen, goats, inſight, pleniſhing, and other goods and gear after ſpecified (6) of the avails, quantities, eſtimations and prices after mentioned, *viz.* (*here leave blank for a ſheet, and thereafter ſay*) then pertaining and belonging to the ſaid purſuer, and being in his poſſeſſion on the ground of the ſaids lands, with the pertinents, by

keeping of the ſaids goods, working and labouring therewith, and paſturing on the ſaids lands, and doing all other ordinary and uſual deeds of poſſeſſion, and otherways uſing and diſpoſing on the ſame as his own proper goods, gear and beſtial, and that divers years, months, or days preceding the foreſaid ſpuilziation; and ſicklike, for the wrongous, violent, and maſterful keeping, detaining, and as yet withholding of the ſame from the ſaid purſuer, continually ſince-ſyne, now by the ſpace of —— together with the excreſcent profits thereof under written, extending the ſaid excreſcent profits yearly, and each year, daily and each day, in milkneſs, work, hire-gang and otherwiſe, to the particular quantities, avails, eſtimations and prices after mentioned, *viz.* (*leave blank for another ſheet, and then ſay*) and which goods, gear, cattle, and others above ſpecified were worth, and would have given and yielded to the ſaid purſuer, the reſpective avails, eſtimations and excreſcent profits and prices above written, had not they violently been ſpuilzied, intromitted with, and away-taken by the ſaids defenders and their foreſaids, of their cauſing and command, as ſaid is, from the ſaid purſuer, in manner, and at the time above rehearſed; and alſo wrongouſly and violently kept and detained by them from him ever ſince, but that they had been ſuffered and allowed to remain and abide with him, and in his poſſeſſion as formerly; *and therefore*, the ſaids defenders to hear and ſee it found and declared, by decreet of Our ſaids Lords of council and ſeſſion, that they have done wrong in the foreſaid wrongous, violent and maſterful ſpuilziation and detention; and the ſame being ſo found and declared, the ſaids defenders to hear and ſee themſelves decerned and ordained to reſtore and deliver to the ſaid purſuer, the foreſaid goods, gear, inſight, pleniſhing, horſe, nolt, ſheep, oxen, cows, goats, and others above ſpecified, wrongouſly, violently, and maſterfully ſpuilzied, intromitted with, and away-taken by them from him, in manner, and at the time above mentioned, and that to the ground and place forth of which they were ſpuilzied and away-taken, as ſaid is, and in as good caſe and condition as the ſame were the time of the ſpuilziation thereof, or elſe to make payment to him of the avails, eſtimations and prices of the ſame above written, together with the excreſcent profits of the ſaids goods, gear, cattle, and others foreſaid, yearly, and each year, and daily and each day, in milkneſs, work, hire-gang, and otherwiſe, or avails and prices of the ſame above expreſſed, ſince the time of the ſpuilziation, and in all time coming during the not-reſtoration of the ſaids goods, cattle, and others foreſaid, or payment of the prices thereof, in manner foreſaid, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification, (*as in the former ſummons of ejection and intruſion, and then a ſecond diet, after which*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS

SUMMONS *of recent Spuilzie, which muſt be purſued within fifteen Days after committing thereof.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn and charge (*leave blank for ſix lines*) perſonally, or at their dwelling-places, on fifteen days warning, to compear, (*as in the preceding ſtiles, and then ſay*) to anſwer at the inſtance of A. B. againſt whom, and to whoſe great hurt and prejudice the ſpuilzie after ſpecified was recently committed, in manner after mentioned, and thereby has ſufficient, good and undoubted right and intereſt to purſue the action of recent ſpuilzie under written, in manner after expreſſed; *that is to ſay*, The ſaids defenders, for the wrongous, violent, and maſterful coming, by themſelves, their men-tenants, ſervants, and others in their names, of their cauſing, ſending, hounding out, command and aſſiſtance upon the —— day of —— inſtant, to the ground of the lands of ——, lying within the pariſh of —— and ſheriffdom of ——and there, in the wrongous, violent, and maſterful ſpuilziation, intromitting with, and away-taking from the ſaid purſuer off the ground of the ſaids lands, the corns, cattle, horſe, nolt, ſheep, oxen, cows, goats, pleniſhing, and other goods and gear after ſpecified (*follow forth the ſtile of the former ſummons from this* (6) *figure to the end; only advert, that ſince this is a recent ſpuilzie, and purſued within fifteen days, ye muſt not ſay* yearly, and each year, *but only* daily, and each day.)

Nota, primo, This ſummons muſt have a bill, becauſe it muſt bear to be called ſummarily on fifteen days warning, being a recent ſpuilzie, and ſo privileged of its own nature, and merits ſummar proceſs conform to the Lords daily practique and order uſed and obſerved in the like caſes, and their deliverance to be granted thereanent; which being written upon in the bill chamber, and paſſed by the Lord Ordinary on the bills, and alſo ſubſcribed by the clerk of the bills, the ſummons is written thereon, *at ſupra*, wherein ye muſt ſay, *conform to the Lords daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent*; for now the bill is paſſed, and differs in that from the bill.

SUMMONS *of wrongous Intromiſſion.*

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn and charge (*leave blank for ſix lines*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*follow forth the former ſtyle, till ye come to*) to anſwer at the inſtance of A. B. of ——— in the matter under-written: *That is to ſay*, The ſaids defenders, for the wrongous, violent, and

and masterful coming, by themselves, their men-tenants, servants, and others in their names, of their causing, command and hound out, upon the — day of — 17— years, to the ground of the lands of ——, lying within the parish of —— and sheriffdom of —— and there, in the wrongous, violent and masterful intromitting with and away-taking from the said pursuer off the ground of the saids lands, the corns, cattle, horse, nolt, sheep, oxen, cows, goats, plenishing, and others after specified, of the avails, quantities, estimations and prices after mentioned, (*leave blank for a sheet, and then say*) then pertaining and belonging to the said pursuer, and being in his possession, on the ground of the saids lands, with the pertinents, by keeping of the saids goods, working and labouring therewith, pasturing on the saids lands, and doing all other ordinary and usual deeds of possession, and otherwise using and disponing thereupon, as his own proper goods, gear and cattle, and that divers years (at least months or days) preceding the said wrongous intromission; and sicklike, for the wrongous, violent and masterful detaining, keeping and withholding the same from him continually sinceſyne, now by the space of —— wherethrough they they have damnified and prejudged the pursuer in the sum of —— attour the value of the goods themselves, conform to a particular accompt thereof apart (here holden as for expressed, and counted as a part of this present libel, *brevitatis causa*;) and therefore, the saids defenders to hear and see it found and declared, by decreet of Our Lords of council and session, that they have done wrong in the foresaid wrongous, violent and masterful intromission and detention; and the same being so found and declared, to hear and see themselves decerned, by decreet foresaid, to restore and deliver to the said pursuer, the foresaid corns, cattle, nolt, sheep, cows, oxen, goats, plenishing, and other goods and gear above specified, upon the foresaid ground and place forth of which they were wrongously taken, as said is, and in as good case and condition as they were the time of their intromission therewith, and away-taking of the same, or else to make payment to the said pursuer of the avails, estimations and prices of the same above specified; and sicklike, to make payment to him of the foresaid damage and prejudice sustained by him, by and through the said wrongous intromission, extending in manner foresaid, conform to the laws and daily practique of this Our realm, used and observed in the like cases, in all points, or else to alledge a reasonable cause why the same should not be done: With certification to the saids defenders if they fail, Our saids Lords of council and session will proceed in the said matter, and find, decern and declare, in manner foresaid, (*to insert a second diet, and then*) According to justice, as ye will answer, *&c.*

Nota, This summons differs from a spuilzie in these things: 1. As to the style, as appears by reading both. 2. A spuilzie must be pursued within three years after committing thereof, else resolves only in a wrongous intromission, which may be pursued at any time within prescription: And this is the reason I set down both, albeit I know few summonses of wrongous intromission are now raised, but spuilzies; and, when it comes to be discussed, the pursuer restricts it (upon the first defence not pursued within three years) to a wrongous intromission.

SUMMONS

SUMMONS *of ſucceeding in Vice and vicious Poſſeſſion.*

GEORGE *&c.* To Our lovits ——, Our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: Whereas it is humbly meant and ſhown to Us by A. D. of S. That where, upon the — day of — 17— years, the ſaid purſuer obtained a decreet of removing at his inſtance before Our Lords of council and ſeſſion, againſt J. S. of —— and W. C. his hynd, decerning and ordaining them to flit and remove themſelves, their wives, bairns, families, ſervants, cottars, goods and gear, forth and from all and haill the ſaid purſuer his lands of S. with the pertinents, lying within the pariſh of —— and ſheriffdom of ——, and to deſiſt and ceaſe therefrom, and to leave the ſame void and redd, as they that were lawfully warned for that effect, before the feaſt and term of Whitſunday in the year of God 17—— years, to the effect the ſaid purſuer might enter thereto, and peaceably poſſeſs, bruik and enjoy the ſame, as his own proper heritage, at his pleaſure, thereafter in time coming, conform to his infeftment thereof, warning made by the purſuer by virtue of the ſame, and act of parliament anent removing in all points, as the ſaid decreet, of the date foreſaid, at more length bears: Likeas, conform thereto, and letters of horning raiſed thereupon, the ſaids defenders, upon the ----- day of ----- thereafter, lawfully charged, perſonally apprehended, to remove themſelves and their foreſaids, with their goods and gear, in manner, and to the effect above ſpecified, and that within the ſpace, and with certification mentioned in the ſaids letters, as the ſame, and executions thereof in themſelves alſo more fully is contained: Notwithſtanding whereof, the ſaid J. S. and his hynd, in manifeſt contempt of Our ſaids Lords their decreet, horning raiſed thereupon, and charge given by virtue thereof, and of Our authority and laws, and, in place of giving obedience, did, in a moſt private and clandeſtine manner, upon the —— day of —— 17 —— years, remove, and by connivance D. C. entered in the poſſeſſion of the ſame, and that without any right or tack from, or conſent of, the ſaid purſuer, heritor thereof, and thereby the ſaid D. C. *&c.* by themſelves, tenants, ſervants and cottars, with their goods and gear, have intruded in the poſſeſſion of the ſaids lands and pertinents, and thereby entered and ſucceeded in the ſaids J. S. and —— their vice, and violent occupation thereof; likeas, the ſaid D. C. *&c.* have, by themſelves, their ſervants, complices, and others in their names, of their cauſing, hounding out, command, aſſiſtance and ratihabition, ever ſince, moſt contumelioufly, wrongouſly, violently and maſterfully occupied, laboured, manured, poſſeſſed, detained and withholden the ſaids lands, with their pertinents, from the ſaid purſuer, together with the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame, now by the ſpace after ſpecified, extending yearly, and each year, and in the haill, to the avails, quantities, eſtimations and prices after mentioned, *viz.* (*here leave blank for half a ſheet, and then ſay*) and which the ſame lands and other pertinents were worth, and would have yielded to the ſaid purſuer during the ſaid ſpace, had the ſaid D. C.

&c.

&c. defenders, not then wrongouſly, violently, and without any order of law, intruded themſelves in the poſſeſſion thereof, and thereby ſucceeding to the ſaid J. S. and his ſaid hynd, in the ſame violent occupation, and continued therein now by the ſpace above written, but had ſuffered the ſaid purſuer to have entered peaceably thereto, and bruik, enjoy and poſſeſs the ſame by himſelf, tenants and ſervants, and their cattle, goods and gear, conform to his ſaid right and infeftment, decreet of removing obtained conform thereto, letters raiſed thereupon, and charge given to the former tenants by virtue thereof, laws and acts of parliament of this Our realm in that caſe provided, wherethrough the ſaids defenders are not only liable *in ſolidum* to the ſaid purſuer, by the laws and practique of this kingdom, of the ſaids mails, farms, profits, duties and caſualties yearly during the ſaid ſpace, and extending as ſaid is, but alſo, of as much more (being double mail or duty,) as the *pœna juris* of the ſaid violent intruſion, in the ſaid poſſeſſion of the ſaids lands and pertinents, and coming in vice of the ſaid J. S. and his ſaid hynd, who were formerly tenants, and lawfully warned, decerned and charged to remove therefrom, in manner foreſaid, and thereby liable to the ſaid duplication in the ſame manner as if the ſaids former tenants would have been, in caſe they had not removed, but violently continued their poſſeſſion, contrary to the ſaid decreet of removing and charge: And further, the ſaids defenders will on nowiſe as yet deſiſt from the ſaids lands, with their pertinents, and leave the ſame void and redd of them, their tenants, ſervants, cottars, goods and gear, to the effect the ſaid purſuer may enter thereto, and peaceably poſſeſs, bruik, enjoy, occupy, labour, manure, ſet, raiſe, uſe and diſpoſe thereupon at pleaſure, and to make payment to him of the like double and violent profits yearly, and each year in time coming, during their not-removal and repoſſeſſion of the purſuer, albeit they be oft and divers times deſired and required thereto, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid D. C. *&c.* perſonally, or at their dwelling-places, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaids defenders to hear and ſee it found and declared, by decreet of Our ſaids Lords of council and ſeſſion, that they have done wrong, by themſelves and their foreſaids, of their cauſing, and command as ſaid is, in intruding themſelves, tenants, ſervants, cottars, goods and gear in the ſaids lands, with the pertinents formerly occupied and poſſeſſed by the ſaid J. S. and his ſaid hynd the time above ſpecified, and ſucceeding upon their removal in their vice and violent poſſeſſion and occupation thereof, and alſo in the wrongous, violent and maſterful labouring, manuring and withholding from the purſuer, of the ſame lands with the pertinents, together with the haill mails, farms, profits, duties and caſualties thereof yearly ſinceſyne, now by the ſpace above mentioned, and of the avails, quantities, and eſtimations and prices above written, extending as ſaid is, (and which the ſaid purſuer might have made thereof, had the defenders not intruded themſelves in the poſſeſſion, but ſuffered and permitted the purſuer to have entered thereto, and peaceably poſſeſſed and

enjoyed

enjoyed the ſame, in manner above expreſſed), together alſo with the duplication of the ſame during the ſaid ſpace, likewiſe by them due in law, as ſucceeding in the former tenants vice and violent poſſeſſion, after obtaining of the ſaid decreet of removing, and charge following thereupon; and the ſame being ſo found and declared, the ſaids defenders to hear and ſee themſelves decerned and ordained, by decreet of Our ſaids Lords, to make payment to the ſaid purſuer of the foreſaid mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands and others above ſpecified, of the avails, quantities, eſtimations and prices above mentioned, yearly and each year ſince the time above written of the ſaid J. S. *&c.* their removal therefrom, and the ſaids defenders their wrongous, violent and maſterful intruding of themſelves therein, but any right, title or order of law, as ſaid is, now by the ſpace aforeſaid, and extending in haill in manner above expreſſed, (and which the purſuer might have made thereof, and the ſaids lands, with the pertinents, would have yielded to him), had not they entered in the violent poſſeſſion, but that the purſuer had been ſuffered and permitted to enter thereto, and peaceably to have poſſeſſed, enjoyed, laboured and manured the ſame, in manner above rehearſed: *And ſicklike*, to make payment to him of the ſaid double mail, as they who ſucceeded in the ſaid former tenants their vice and violent poſſeſſion, after obtaining of the ſaid decreet of removing, and charge following thereupon, and that alſo yearly during the ſaid ſpace (as *pœna juris*), incurred by them therethrough: *And laſtly*, to hear and ſee themſelves decerned to flit and remove themſelves, their tenants, ſervants, families, ſubtenants, cottars, goods and gear therefrom, and to deſiſt and ceaſe from all labouring and manuring, or poſſeſſing the ſame in time coming, and to ſuffer and permit the ſaid purſuer to enter thereto, and peaceably poſſeſs, bruik, enjoy, labour, manure, ſet, raiſe, uſe and diſpone thereupon at pleaſure, and to make payment to him of the like mails, farms, kains, cuſtoms, caſualties, profits, duties and duplication thereof, yearly and termly in time coming, ay and while the ſaids defenders remove, and that the ſaid purſuer enter and be peaceably repoſſeſſed, in manner above expreſſed, after the form and tenor of the ſaid purſuer his rights and infeftments, decreet of removing, horning raiſed thereupon, and charge given to the former tenants by virtue thereof, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaids defenders, if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid, according to juſtice, and for the coſts and ſkaiths, *&c.* to be called ſummarily on ſix days warning, but diet, table, or continuation of other ſummons, becauſe the foreſaid action is acceſſory to the ſaid decreet of removing, horning and charge, follows and depends thereupon, and is a part of the execution thereof, and ſo merits ſummar proceſs, conform to the ſaids Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, I have ſeen a ſummons of this nature, dated the 3d of February 1591, and thought fit to add the ſame with the reſt, but I admire why the ſame was without continuation of other ſummons: For albeit it being acceſſory to the decreet of removing, it might have been privileged on ſix days; yet becauſe of the conſequence and import, *viz.* not only the neceſſity of a probation of the duties and caſualties, but alſo that double mail is libelled and concluded, as ſucceeding in vice and violent poſſeſſion of the former tenant, againſt whom decreet was obtained, and which behoved alſo to be proven; in my opinion, it ſhould have been with continuation, and conſequently now with a ſecond diet, as differing in thoſe points from a ſimple removing: But it ſeems, as the act was contemptuous, ſo the Lords ſuſtained ſuch proceſſes ſummarily.

SUMMONS *of Reduction of a Decreet-arbitral, either pronounced* ultra vires compromiſſi, *or upon the Head of Iniquity.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting, *&c. Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge ——, in whoſe favours the pretended decreet-arbitral after-ſpecified is given and pronounced, in manner after-mentioned, —— judges-arbitrators, and —— overſman, who, or one or other of them are alledged —— givers and pronouncers thereof, perſonally, or at their dwelling-places, on twenty-one days warning, and all others, *&c.* by open proclamation, *&c.* to compear before Our Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of A. B. of ——, againſt whom, and to whoſe great hurt and prejudice the ſaid pretended decreet-arbitral is alledged given and pronounced, either *ultra vires compromiſſi*, or moſt partially and iniquouſly, in manner after-ſpecified, and thereby having ſufficient, good and undoubted right and intereſt to call for exhibition and production thereof, and ſubmiſſion whereupon the ſame proceeds, and to proſecute, follow forth and purſue the action of reduction of the ſame under-written, in manner after-expreſſed: *That is to ſay*, The ſaids defenders to bring with them, exhibit and produce before the ſaids Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, the pretended ſubmiſſion, (*here leave blank for the production*) of the dates, tenors and contents above ſpecified, or of whatſoever other dates, tenors or contents the ſame be of, to be ſeen and conſidered by the ſaids Lords, and to hear and ſee the ſame reduced, (6) retreated, reſcinded, caſſed, annulled, decerned and declared, by their decreet, to have been from the beginning, to be now, and in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or may follow thereupon, and the ſaid purſuer reſtored and reponed *in integrum* againſt the ſame, (7) for the reaſons and cauſes following, (*here leave blank for the reaſons*); and therefore, the foreſaid pretended ſubmiſſion and decreet-arbitral, of the dates, tenors and contents above ſpecified, or of whatſoever other dates, tenors or contents the ſame be of, ought and ſhould be reduced (*take in as above, from the* (6) *figure till ye come to the* (7) *figure, and then ſay*) for the reaſons and cauſes foreſaid, and others, or elſe to alledge

allege a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaids defenders, if they fail, the ſaids Lords will proceed in the ſaid matter, and reduce, decern and declare in manner foreſaid—(*to inſert a ſecond diet, as in other reductions, and then ſay*) According to juſtice, as ye will anſwer, *&c.* Given, *&c.*

SUMMONS *of Reduction of a Tutory or Curatory to a furious Man againſt the Tutors or Curators, including alſo a Declarator of the perſon once furious his being reſtored to Health, Memory and Judgment*, et rei ſuæ providus.

GEORGE, &c. To ——, Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge A. B. of —— and C. D. of —— tutors and curators to H. D. of —— during life, by reaſon of his *furioſity* and indiſpoſition for the time, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have intereſt in the matter under-written, by open proclamation ——— to compear ——— to anſwer at the inſtance of the ſaid H. D. for whoſe good and utility, albeit the ſaid tutory and curatory was granted at firſt by reaſon of his furioſity, diſtemper, and indiſpoſition at the time; yet now being, by the bleſſing and mercy of God, reſtored to his perfect health, ſtrength, memory and judgment, and known to be *rei ſuæ providus*, the continuance of the ſaid office, tends not only much to his prejudice, but alſo reflects upon his honour and reputation, neither will any deal with him in the leaſt affair, trade or commerce, and thereby unprofitable and inſignificant in a world, wherethrough, and that his fame and good name, honour and intereſt, may be fully redintegrated, revived and preſerved, and all perſons in capacity, and put *in tuto* to deal with him, having now, after his twenty-one years complete, ſufficient, good and undoubted right and intereſt to call for exhibition and production of the ſaid tutory and curatory, and to proſecute, follow forth and purſue the action of reduction and declarator after ſpecified, in manner after mentioned: *That is to ſay*, The ſaids defenders to bring with them, exhibit and produce before the ſaids Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, (*leave blank for the production*) of the date, tenor and contents above ſpecified, or of whatſoever other date, tenor or contents the ſame be of, to be ſeen and conſidered by the ſaids Lords, and to hear and ſee the ſame reduced, retreated, reſcinded, caſſed, annulled, decerned and declared, by their decreet, to have been from the beginning, (at leaſt ſince the month of ----- 17--- years, at which time the purſuer was quit, rid and free of his former furioſity, diſtemper and indiſpoſition, and, by the mercy and bleſſing of God, attained to his perfect health, memory and judgment) to be now, and in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or may follow there-

upon, for the reaſons and cauſes following: In the *firſt* (*here leave blank for the reaſons*) and to hear and ſee it found and declared, by decreet foreſaid, that the ſaid purſuer, ſince the time above ſpecified, was quit, rid and free of his former furioſity, indiſpoſition and diſtemper, and, by the mercy and bleſſing of God, perfectly reſtored to his health, memory and judgment, and by ſeveral acts and demonſtrations has given full and clear evidences, that he is *compos mentis, et rei ſuæ providus*, and ſo without any neceſſity of lying under any ſuch tutory, curatory or adminiſtration, as by the law were given to him the time of his ſaid indiſpoſition aforeſaid: And the ſame being ſo found and declared, the ſaids defenders to hear and ſee the foreſaid gift of tutory and curatory, and office thereof, declared extinct, void and null for the future, and that all acts and deeds to be done by him *per ſe*, and without conſent of the defenders in time coming, in the adminiſtration of his eſtate and affairs, or otherways, ſhall ſtand good and valid, and be as ſufficient, and of as great force and effect to all intents and purpoſes, as if the ſaid purſuer had never been furious, or under ſuch indiſpoſition of body or mind, or any ſuch gift granted on that account; and therefore, the foreſaid pretended gift ought and ſhould be reduced, retreated, reſcinded, caſſed, annulled, decerned and declared, by decreet of the ſaids Lords, to have been from the beginning (at leaſt ſince the time above ſpecified of his being free of his diſtemper and indiſpoſition, and attaining to his perfect health, memory and judgment, in manner foreſaid), and alſo in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or may follow on the ſame, for the reaſons and cauſes foreſaid, and others; and it ought and ſhould be found and declared, by decreet foreſaid, that the ſaid purſuer, ſince the time above ſpecified, was rid and free of his former furioſity, indiſpoſition and diſtemper, and, by the mercy and bleſſing of God, perfectly reſtored to his health, ſtrength, memory and judgment, and by ſeveral acts and demonſtrations has given full and clear evidences that he is *compos mentis, et rei ſuæ providus*, and ſo without a neceſſity of lying under any ſuch tutory, curatory and adminiſtration, as by the laws given the time of his indiſpoſition aforeſaid: And the ſame being ſo found and declared, the foreſaid gift of tutory and curatory, and office thereof, ought and ſhould be alſo declared extinct, void and null for the future, and that all acts and deeds to be done by him *per ſe*, and without conſent of the ſaids tutors, curators and adminiſtrators, in all time coming, in the adminiſtration of his ſaid eſtate and affairs, or otherways, ſhall ſtand good and valid, and be as ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if the ſaid purſuer had never been furious, or under ſuch indiſpoſition of body or mind, or any ſuch gift granted on that account, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes in all points, or elſe to alledge, *&c.* With certification to the ſaids defenders if they fail, Our ſaids Lords will proceed in the ſaid matter, and reduce, find, decern and declare in manner foreſaid—*(To inſert a ſecond diet, and needs no bill.)*

Nota,

Nota, If they came to the office by brief and ſervice, that muſt be reduced, and the ſaid declarator followed *mutatis mutandis*.

SUMMONS *on the Paſſive Titles.*

GEORGE, *&c.* To ---------- Our ſheriffs in that part, and meſſengers *reſpectivè*, *&c.* That where the deceaſed A. B. of -------- by his bond, dated the ------ day of ------ 17--- years, for the cauſes therein ſpecified, bound and obliged him, his heirs, executors, ſucceſſors, and intromitters with his goods and gear whatſoever, to have contented and paid to the ſaid purſuer, his heirs, executors, or aſſignees, the ſum of ------ Scots money, as principal, with the annualrent thereof, from the term of ------ to the term of payment under written, and that betwixt the date foreſaid of the ſaid bond, and the feaſt and term of ------ then next to come, without longer delay, with the ſum of ------ money foreſaid, of liquidate expences, in caſe of failzie, together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not-payment thereof after the ſaid term, as the ſaid bond, of the date aforeſaid, in itſelf more fully proports: And albeit it be of verity, that the foreſaid ſums of money be as yet truly addebted and reſting, owing, unpaid, and that the ſaid purſuer (6) has oft and divers times deſired and required C. B. now of ------ eldeſt lawful ſon and heir ſerved and retoured to the ſaid deceaſed A. B. at leaſt lawfully charged to enter heir to him within forty days, conform to the act of parliament, at leaſt bearing and behaving himſelf as heir to him, by intromiſſion with his heirſhip, goods, and gear, *titulo lucrativo*, at leaſt ſingular ſucceſſor to him in his lands and heritages *poſt contractum debitum*, at leaſt as he who accepted of a diſpoſition or other right from his ſaid deceaſed father of his lands and eſtate, or ſome part or portion thereof, with the burden of the payment of his debts contracted and to have been contracted, at leaſt executor decerned and confirmed to him, or univerſal intromitter with his goods, gear, and debts, and his tutors and curators, if he any has, for their intereſts, to have made payment to the ſaid purſuer thereof, conform to the ſaid bond (7) and laws and practique of this kingdom in all points: Nevertheleſs, *&c.* as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. B. defender, *nominibus paſſivis quibus ſupra*, perſonally, or at his dwelling place, on twenty-one days warning, and his tutors and curators, if he any has, for their intereſts, by open proclamation, at the market-croſs of ------, and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter; *That is to ſay*, The ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid C. B. defender, upon the paſſive titles above ſpecified, or one or other of them, and his ſaids tutors and curators for their intereſts, to hear and ſee themſelves decerned, and ordained, by decreet of our ſaids Lords of council and ſeſſion, to make

payment

payment to the ſaid purſuer (8) of the ſaid ſum of ------ money foreſaid of principal, with the ſum of ------ money above written of expences, together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, of all years and terms bygone, reſting, owing, unpaid; and ſicklike, yearly and termly in time coming, during the not-payment thereof (the terms of payment of the ſame being firſt come and bygone), after the form and tenor of the ſaid bond, (9) laws, and practique of this Our realm, in all points, or elſe to alledge, *&c.* With certification to the ſaids defenders, if they fail, the ſaids Lords will proceed in the ſaid matter, and decern therein in manner foreſaid: According to juſtice, *&c.*

Nota, 1. If the purſuer has not a general charge execute, or cannot prove another paſſive title by writ, there is a neceſſity to inſert a ſecond diet before *according to juſtice*. 2. If the ſum be aſſigned, the aſſignee muſt be the purſuer, and after deduction of the bond (ſpeaking of the creditor in the third perſon) then deduce alſo the aſſignation curtly, as ye do in a horning. 3. In this caſe add, at this (6) figure, *as aſſignee foreſaid*. 4. At this (7) figure add, *and aſſignation*. 5. At this (8) figure add, *as aſſignee foreſaid*. 6. At this (9) figure add, *and aſſignation*.

Nota, Sometimes the debitor is alive and the creditor dead, in which caſe, the perſon that repreſents the creditor, whether as heir or executor (which, by the nature and conception of the bond, muſt be determined), or if by aſſignation from the creditor, and intimated in his lifetime, muſt be the purſuer, and libel his title; and in all other things, the former ſtyle holds, narrating the aſſignation and intimation, if that be the title, *ut ſupra*.

Nota, Except where the defender is minor, tutors and curators need not be inſert or cited; and if the purſuer (whatever be his title to the debt) be minor, his tutors and curators muſt likewiſe be made purſuers for their intereſts.

Nota, When this ſummons is execute, and called by the courſe of the roll, if no paſſive title can be made out againſt him (except that of lawfully charged to enter heir), and that the defender offer to renounce, then he either inſtantly produces, or takes a day; which being aſſigned to him at the day, he either produces or not; if not, he is decerned as lawfully charged to enter heir; and decreet being extracted, all diligence and execution competent enſues thereupon, as in my firſt part (treating upon real and perſonal diligence); but if he renounce, then he is aſſoilzied from the purſuit, and yet decerned againſt, *cognitionis cauſa*;---which being extracted, ye thereupon raiſe the ſummons of adjudication following.

SUMMONS *of Adjudication, upon a Decreet* cognitionis cauſa, *wherein is ſuppoſed there be Lands holden of the King, Burgage and otherwiſe, and likewiſe of other Superiors.*

GEORGE, *&c.* To ------ ſheriffs in that part, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to us by G. D. of ------ That where *(here take in the narrative of the former ſummons till ye come to*, and albeit it be of verity, *and then libel thus:)* Whereupon the ſaid purſuer raiſed ſummons, and intented action, at his inſtance, before the Lords of Council and Seſſion, againſt C. B. now of ------ as eldeſt lawful ſon and heir ſerved and retoured to the ſaid deceaſed A. B. at leaſt lawfully charged to enter heir to him within forty days, conform

to

to the act of parliament, and upon the remanent paſſive titles; and which ſummons being called, in preſence of the ſaids Lords, upon the ------ day of ------ laſt bypaſt; and the ſaid purſuer, compearing by S. R. C. his advocate, who for him produced the ſaid bond to verify the debt, and thereafter declared, that he inſiſted againſt the defender as lawfully charged to enter heir to his ſaid deceaſed father, and, for inſtructing of that paſſive title, produced letters of general charge to enter heir, at the inſtance of the purſuer againſt the defender, with the executions thereof, under the hand of ------ meſſenger, bearing, That upon the ------ day of ------ laſt bypaſt, he charged the defender, and his tutors and curators for their intereſt, to enter him heir to his ſaid deceaſed father within forty days, conform to the act of parliament, to the effect, and with certification ſpecified in the ſaids letters and executions thereof, and the ſaid defender compearing by S. D. C. advocate, his procurator, alledged, that the defender ought to be aſſoilzied, becauſe he offered to renounce, and craved a day might be aſſigned to him for that effect, which the Lords granted; and the day aſſigned being elapſed, and the ſaid action of new called in their preſence, upon the —— day of —— laſt, the ſaid S. D. C. —— for the defender, produced a renunciation, ſubſcribed by his ſaid client, dated the ------ day of ------ whereby he renounced to be heir to his ſaid deceaſed father, with all profit and benefit that might accrue to him (if he were heir) in favours of the purſuer, his heirs and aſſignees; and in reſpect thereof, proteſted, his client might be aſſoilzied from the ſaids ſummons, and haill concluſions thereof; whereupon the purſuer and his procurator craved decreet *cognitionis cauſa contra hæreditatem jacentem et bona immobilia*, and other goods and gear pertaining to the defunct, and that might belong and appertain to the defender, had he repreſented, and not renounced to be heir to him in manner foreſaid; all which debate and writs produced, being at length heard, ſeen, and conſidered, by the ſaids Lords, and they therewith being well and ripely adviſed, they, by their decreet then given and pronounced by them in the ſaid matter, aſſoilzied the ſaid defender and his ſaid tutors and curators, *(here take in the words of the decerniture in the decreet* cognitionis cauſa, *till ye come to the* becauſe, *and then ſay)* as the ſaid decreet *cognitionis cauſa*, of the date foreſaid, in itſelf more fully proports. *And true it is*, That the ſaid deceaſed A. B. of ------ had pertaining heritably, or otherwiſe to him, the time of his deceaſe, the lands, tenements, and others after ſpecified, holden of the ſuperiors after mentioned, *viz. (leave blank for a ſheet to fill the ſame up):* And therefore, the foreſaids lands, tenements, and others above ſpecified, and haill rights and ſecurities thereof, both old and new, granted to the ſaid defunct, or his predeceſſors, cedents, and authors, or introduced and conceived in their favours, or any ways competent, or that might be competent to them, or to the ſaid defender, had he entered, and not renounced to be heir to his ſaid deceaſed father as ſaid is, of and concerning the ſame, together with the mails and duties of the ſaids lands and others foreſaid, crop and year of God 17— years, and in time coming, and all tacks and other rights of the teinds of the ſaids lands, or annuities of the ſaids teinds, ought and ſhould be adjudged, decerned, and declared, by decreet of the ſaids Lords, to pertain and belong

belong to the ſaid purſuer, his heirs and aſſignees whatſomever, heritably, and they ordained to be heritably infeft therein, in manner, and to be holden as is hereafter expreſſed, and that in payment and ſatisfaction to him, and his foreſaids, of the foreſaid ſums of money, principal, annualrents, and expences, contained in the ſaid bond and decreet *cognitionis cauſa*, extending, at the term of —— laſt bypaſt, to the ſum of —— *ſalvo juſto calculo*, and of the annualrent thereof ſince the ſaid term, and in time coming during the not-redemption, conform to the act of parliament made anent appriſings and adjudications, and that attour the compoſitions to the ſuperiors, and expences of the infeftments, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. B. as he who was lawfully charged to enter heir, and yet renounced to be heir to his ſaid deceaſed father in manner foreſaid, and ------ Lord high chancellor of this realm, ------ Lord high treaſurer, ----- Lord privy-ſeal, ----- Lord ſecretary of ſtate, ------ Lord regiſter, ------ Lord treaſurer-depute, ------ Lord juſtice-clerk, ------- Our advocate, and ------ director of Our chancellary, for Our intereſt, in the matter under written, as to ſuch of the ſaids lands as hold of Us otherwiſe than burgage; and ------ provoſt, and ------ baillies of the ſaid burgh of ------, for themſelves, and as repreſenting the whole council and community, alſo for Our intereſt, as to ſuch as hold of Us burgage, as ſaid is, and for themſelves, as to what holds of the burgh, not of Us, burgage, and —— ſuperiors of the remanent lands, and others above mentioned, perſonally, or at their dwelling-places, on twenty-one days warning, and the ſaid C. B. his tutors and curators, (if he any has,) for their intereſts, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation, at the market-croſs of —— and other places needful, to compear, (*as in the preceding ſtyles, till ye come to*) to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter; *That is to ſay*, The ſaids defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, to hear and ſee the foreſaids lands, tenements, and others above ſpecified, holden of the ſuperiors above mentioned, and haill rights and ſecurities thereof, both old and new, granted to the ſaid deceaſed A. B. or his predeceſſors, cedents and authors, or introduced and conceived in their favours, or anywiſe competent, or that might be competent to them or to the ſaid defender, had he entered and not renounced to be heir to his ſaid deceaſed father, as ſaid is, of and concerning the ſame, together with the mails and duties of the ſaids lands and others foreſaid, the ſaid crop and year of God 17—— years, and in time coming, and all tacks and other rights of the teinds of the ſaids lands, and annuities of the ſaids teinds, adjudged, decerned and declared, by decreet of the ſaids Lords, to pertain and belong to the ſaid purſuer and his foreſaids, heritably, and they ordained to be infeft in the ſaids lands and others foreſaid, holden of Us and Our royal ſucceſſors, (otherwiſe than burgage,) in manner foreſaid, and that by way of ſignature and compoſition in Our exchequer, to be expede the great ſeal, in due and competent

competent form, to be holden of Us and Our foreſaids, ſicklike, and as freely in all reſpects, as the ſaid defunct, or any of his authors or predeceſſors held the ſame, or as the defender might have holden the ſame, had he entered and not renounced to be heir to him, as ſaid is; and alſo the ſaid provoſt and baillies of the ſaid burgh of -----, and their ſucceſſors in place and office, to hear and ſee themſelves decerned to infeft and ſeiſe the ſaid purſuer and his foreſaids, in the tenements of land, and others foreſaid, holden burgage, in manner above ſpecified, to be holden of Us and Our foreſaids, in free burgage, for ſervice of burgh uſed and wont, in due and competent form; and ſicklike, to hear and ſee themſelves decerned to infeft and ſeiſe the purſuer and his foreſaids, in the ſaids lands and others foreſaid, holden of themſelves, and of the council and community of the ſaid burgh, to be holden of them, and their ſucceſſors in place and office, ſicklike, and as freely in all reſpects as the ſaid defender's father or his foreſaids held the ſame, or as he himſelf might have holden the ſame, (had he entered and not renounced to be heir to him, as ſaid is;) and in like manner, the ſaids other ſuperiors above named, to hear and ſee themſelves decerned and ordained to infeft and ſeiſe the ſaid purſuer and his foreſaids, in the lands and others above mentioned, holden of them in manner foreſaid, and to grant charters, containing precept of ſaſine, in order thereto, to be holden of them, their heirs and ſucceſſors, ſicklike, and as freely in all reſpects, as the defender's father or his foreſaids held, or as he himſelf might have holden the ſame, had he entered and not renounced to be heir to him, in manner above expreſſed; and to hear and ſee letters of horning ordained to be directed againſt them and the ſaids magiſtrates for that effect, on a ſimple charge of twenty-one days, and that in payment and ſatisfaction to the ſaid purſuer and his foreſaids, of the ſums of money, principal, annualrents and expences *reſpectivè* above ſpecified, contained in the ſaid bond and decreet *cognitionis cauſa*, extending, at the ſaid term of ----- laſt bypaſt, to the ſum of ----- money foreſaid, *ſalvo juſto calculo*, and of the annualrent thereof ſince the ſaid term, and in time coming, during the ſaid not-redemption, conform to the act of parliament, and that by and attour the compoſitions to the ſuperiors, and expences of the infeftments, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaids defenders if they fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, and adjudge, decern and declare, in manner foreſaid, according to juſtice, as ye will anſwer, *&c. Given, &c.*

Ex deliberatione Dominorum Concilii.

This ſummons never by law or cuſtom had a bill, till within theſe few years, that the keeper of the ſignet would not paſs them without a bill, becauſe that adjudications came in place of appriſings, and had a bill, which did not quadrate with this caſe at all; for that by act of parliament is appointed to have a bill, this not; and in effect, upon no other account than for the benefit of an extract to his man, if the principal

ſummons ſhould be loſt, in proceſs or otherwiſe; but the writing of the bill is no great matter, being drawn ſhort; and I have ſet down a form of it here.

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth, G. D. of ---- That where the deceaſed A. B. of ---- being addebted to me by bond, dated the ---- day of ---- 17— years, in the ſum of ---- Scots money of principal, with annualrents and expences; I thereupon raiſed ſummons, and intented action at my inſtance before your Lordſhips againſt C. B. now of ---- as lawfully charged to enter heir to him within forty days, conform to the act of parliament, and upon the remanent paſſive titles, and againſt his tutors and curators for their intereſts, touching the decerning of them, by your Lordſhips decreet, to make payment to me of the ſaid ſums; and the ſaid ſummons being, upon the ---- day of ---- called in your Lordſhips preſence, and inſiſting againſt him, as lawfully charged to enter heir to his ſaid father, and produced the ſaid bond, with my general charge and executions thereof; and he and his ſaid tutors and curators compearing, and craving a day to renounce, which was aſſigned to them, and accordingly producing a renunciation of his being heir to his ſaid deceaſed father: Upon my calling of the act made in the ſaid matter, your Lordſhips, by your decreet given and pronounced therein, upon the ---- day of ---- laſt bypaſt, aſſoilzied the defender and his ſaid tutors and curators from the ſaid purſuit, and haill deſire and concluſion of the ſummons craved thereby, and yet decerned againſt them *cognitionis cauſa tantum*, to the effect I may have action of adjudication, and others of the law competent, directed and raiſed at my inſtance, *contra hæreditatem jacentem et bona immobilia*, and other goods and gear belonging to the defender's father, and that might appertain to himſelf, had he entered and not renounced to be heir to him, in manner foreſaid, and that for payment and ſatisfaction to me of the ſaid ſums contained in the ſaid bond, as the decreet *cognitionis cauſa* in itſelf more fully proports: *And true it is*, That the ſaid A. B. (the defender's father) the time of his deceaſe, had pertaining heritably, or otherwiſe to him, the lands, tenements, and others after ſpecified, holden of the ſuperiors after mentioned, *viz.* (*leave blank for a ſheet, and then ſay*) which, with the haill right and ſecurity thereof, both old and new, granted to him, his predeceſſors, cedents and authors, and conceived in their favours, or anywiſe competent to them, or that might be competent to his ſaid ſon, had he entered, and not renounced to be heir to him, as ſaid is, together with the mails and duties thereof, crop and year of God 17---- years, and in time coming during the not-redemption, and all tacks and rights granted to, or competent to them of the teinds of the ſaids lands or annuities of the ſaids teinds, ought and ſhould be accordingly adjudged by your Lordſhips decreet, in favours of me, my heirs and aſſignees, heritably, and we ordained to be infeft in the ſaids lands and others foreſaid, by way of ſignature and compoſition in exchequer, as to what holds of the King (otherwiſe than burgage,) and as to what burgage, by the provoſt and baillies of the ſaid burgh of ---- in due form, and by the other ſuperiors by charter, containing precept of ſaſine, and horning, ordained to be

directed

directed for that effect, on a ſimple charge of twenty-one days, to be holden of the reſpective ſuperiors, as the defunct, or his predeceſſors and authors held, or the defender might have holden the ſame, in payment to us of the ſaid ſums contained in the ſaid bond and decreet, extending at the term of ----- laſt bypaſt, to the ſum of -----, with the annualrent thereof ſince the ſaid term, and during not-redemption, and that by and attour the compoſition to the ſuperiors, and expences of the infeftment, conform to the laws and acts of parliament of this kingdom, made anent adjudications and apprifings, in all points. *Herefore*, I beſeech your Lordſhips, that I may have ſummons of adjudication in the premiſſes againſt the ſaid C. B. as he who was lawfully charged to enter heir, and yet renounced to be heir to his ſaid deceaſed father, in manner foreſaid, and againſt the miniſters of ſtate, and director of the chancellary for his Majeſty's intereſt, and againſt the provoſt and baillies of -----, and others, ſuperiors above named, and the ſaid C. B. his tutors and curators for their intereſts, and all others having or pretending to have intereſt, (*as I pleaſe libel*) to be called on twenty-one days, but any further diet, being acceſſory to the ſaid decreet *cognitionis cauſa*, follows and depends thereupon, and is a part of the execution thereof, and ſo merits ſummar proceſs, conform to the laws and act of parliament, and daily practique of this kingdom, uſed and obſerved in the like caſes, and your Lordſhips deliverance to be granted thereanent, and your Lordſhips anſwer.

SUMMONS *of Adjudication in place of Appriſings, conform to the Act of Parliament; and becauſe it muſt have a Bill, I ſet it firſt down.*

Bill of Adjudication.

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth G. D. of —— That where (*here take in the narrative of the following ſummons, till ye come to the letter R, and then ſay.*) likeas the ſaid G. and G. by their right and diſpoſition, of the date the —— day of —— diſponed the premiſſes in favours of me, my heirs and aſſignees, with the declaration therein ſpecified, as the ſame alſo bears; and ſicklike, his Majeſty Charles the ſecond, of ever glorious memory, with conſent of his Highneſs's eſtates of parliament, by the 19th act of the third ſeſſion of his Majeſty's ſecond parliament, holden at Edinburgh the ſixth day of September, One thouſand ſix hundred and ſeventy-two years, entitled, *Act concerning adjudications*, upon the conſiderations therein mentioned, ſtatute and ordained, That in place of comprifings, (*here take in the act as curtly deduced in the following ſummons, till ye come to the letter W, and then ſay.*) And true it is, that the ſaid R. G. of S. has pertaining to him the lands and others after ſpecified, holden by him of the ſuperiors after mentioned, *viz.* (*here leave a blank for the lands to be inſert accordingly, as they are in his*

charter or ſaſine, if either of them can be had; and if they cannot be had, according to an exact information thereof; and as to the ſuperiors, they may be had notice of, and then ſay) And albeit it be of verity, that I, as having right, in manner foreſaid, have oft and divers times deſired and required the ſaid R. G. of S. to have made payment to me of the foreſaid ſums, principal, annualrents, penalties, (to be liquidate by the ſaids Lords to a fifth part of the principal ſum, in manner under written) prices of the ſaids bolls, and expences of plea above mentioned; nevertheleſs, he wrongouſly refuſes, poſtpones and defers to do the ſame, neither will he diſpone or make conveyance to me of as much of the ſaids lands and eſtate, (at my election) as will correſpond to, and ſatisfy and pay me of the ſaid ſums, principal, annualrents bygone, reſting, owing, and in time coming, and of the prices of the ſaids bolls, and expences of plea above mentioned, with a fifth part more in place of the ſaid penalties, beſides the ſuperiors compoſition, and charges of the infeftment, or yet deliver to me the principal writs, at leaſt judicial tranſumpts, to the extent of a legal progreſs of right; nor yet will he purge the real incumbrances thereon, renounce the poſſeſſion, and obſerve what elſe is preſcribed by the ſaid act upon the part of the debitor, without he be compelled; wherefore, neceſſary it is, that I have the ſame, with the haill rights and ſecurities thereof, legally adjudged, conform to, and in the terms of the ſaid act of parliament, in manner after expreſſed. *Herefore* I beſeech your Lordſhips, that I may have ſummons of adjudication in the premiſſes (*as I pleaſe libel*) for ſummoning the ſaid R. G. of S. perſonally, or at his dwelling-place, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, *&c.* to compear before your Lordſhips at Edinburgh, or where it ſhall happen your Lordſhips to be for the time, the —— day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at my inſtance in the ſaid matter; *That is to ſay*, The ſaid defender to bring with him, exhibit and produce before your Lordſhips, the ſaid day and place, in the hour of cauſe, with continuation of days, as ſaid is, the haill writs and evidents, both old and new, of the ſaids lands and eſtate, to be ſeen and conſidered by your Lordſhips, to the effect your Lordſhips may cognoſce, judge and determine whether the right be ſufficient or not, and the progreſs thereof full and compleat, and what warrandice your Lordſhips ſhall appoint; and in caſe it be found by your Lordſhips, that the right is good, and the progreſs complete, as ſaid is, and that he purge the real incumbrances on the ſaids lands and eſtate, the ſaid defender to hear and ſee ſuch a part thereof, at my election, as ſhall pay the ſaids principal ſums, annualrent thereof, prices of the ſaid victual, and expences of plea above ſpecified, and a fifth part more in place of the ſaids penalties, extending in the haill to the ſum of —— money foreſaid, *ſalvo juſto calculo*, and that attour the compoſition to the ſuperiors, and charges of the infeftment adjudged from the ſaid defender, *&c.* at the rate above mentioned, and decerned and declared, by your Lordſhips decreet, to pertain and belong to me, my heirs and aſſignees whatſoever, heritably, in ſatisfaction thereof, and that the rent may be conſtituted, and the value of the lands to

be

be adjudged known, and what they paid for five years preceding, and may be worth the time of the adjudication, and may pay in manner above expreſſed, and the rates and prices at which lands are uſually ſold in theſe places of the kingdom where they ly, likeways determined, to hear and ſee a mutual probation led and deduced thereanent, and what warrandice the defender ſhall be liable in to me and my foreſaids, alſo determined by your Lordſhips, under reverſion always, in manner, within the ſpace, in the terms, and upon payment or conſignation of the ſums of money above ſpecified, appointed to be paid by the ſaid act in manner foreſaid, and with deduction of what ſatisfied by my poſſeſſion, by virtue of the ſaid adjudication, and during the years of the not-redemption, in manner therein expreſſed: And further, the ſaid defender to hear and ſee himſelf decerned and ordained, by decreet foreſaid, to deliver to me the ſaids writs and evidents, or judicial tranſumpts thereof, and to ratify the ſaid adjudication, and renounce the poſſeſſion to me, in manner, and to the end above rehearſed: But in caſe the ſaids writs and evidents be either abſtracted, or, being produced, the ſame be not found ſufficient, and the progreſs full and complete, as ſaid is, and do not deliver the ſame, or judicial tranſumpts thereof, as your Lordſhips ſhall judge neceſſary, or in caſe he ſhall not renounce the poſſeſſion, *&c.* and ratify the decreet of adjudication to the effect above mentioned, and purge all real incumbrances in manner foreſaid; then, and in that caſe, the ſaids defender to hear and ſee the haill lands and others above mentioned, pertaining to him, adjudged from him, *&c.* and decerned and declared to pertain and belong to me and my foreſaids, heritably, for payment and ſatisfaction to us of the haill ſums of money, principals, annualrents, penalties, prices of the ſaid victual, and expences of plea above ſpecified, contained in, and decerned againſt him by the ſaid decreet, and to hear and ſee the ſaids penalties liquidated by your Lordſhips decreet, to the fifth part of the principal ſums themſelves, *&c.* extending in the haill to the ſum of —— money foreſaid, *ſalvo juſto calculo*, and of the annualrent of the ſaid accumulate ſum after adjudication, and during the not-redemption, in the ſame manner as I might have compriſed the ſame, conform to the act of parliament One thouſand ſix hundred and ſixty-one, *anent payment of debt betwixt debitor and creditor*, in all points, under reverſion, and with the power competent to other creditors expreſſed in the ſaid act, to be holden, *&c.* after the form and tenor of the ſaid decreet, receipt therein contained, right made to me thereof, and act of parliament aforeſaid made anent adjudications, in all points; and that the ſaid ſummons contain a ſecond diet, upon ſix days warning *in communi forma*, and your Lordſhips anſwer.

This bill being ſubſcribed by a writer to the ſignet, is given in to the bill-chamber, written upon by the clerks, or their deputes, and paſſed by the Lord Ordinary in courſe, and thereafter ſubſcribed by the clerk of the bills.

SUMMONS

SUMMONS *of Adjudication, in place of Appriſing, conform to the Act of Parliament, on the ſaid Bill.*

GEORGE, *&c.* To Our lovits —— meſſengers, Our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Foraſmuchas* it is humbly meant and ſhown to Us by G. D. of S. That where, upon the — day of —— 17— years, G. G. of O. eldeſt lawful ſon and apparent heir to the deceaſed R. G. of O. his father, as party, having right or factory from the ſaid G. D. purſuer, donatar to the ſingle and liferent eſcheats of the goods, gear, debts, ſums of money, decreets, ſentences, reverſions, and others whatſoever pertaining and belonging to the ſaid deceaſed R. G. of O. the time of his deceaſe, which was upon the — day of —— 17—— years, and in whoſe perſon the ſaid eſcheat was declared, and the ſaid G. G. for himſelf, his own right and intereſt, in manner ſpecified in the decreet under written, and G. C. of C. aſſignee, and otherways having right from the ſaid G. G. in manner therein mentioned, *obtained* a decreet at their inſtance before the ſheriff-principal of the ſheriffdom of ——: and his depute, againſt R. G. of S. decerning and ordaining him to make payment to the ſaid G. C. of the ſums of money after ſpecified, *viz.* of the ſum of —— Scots money, for the equivalent like ſum contained in a bond granted by the ſaid deceaſed M. D. M. ſometime miniſter at —— to the ſaid deceaſed R. G. of O. author to the ſaid G. C. and which was borrowed up by him under truſt, upon receipt, from the ſaid G. G. and ſicklike, decerning and ordaining the ſaid R. G. of S. to make payment to the ſaid G. C. of the ſum of —— money foreſaid of principal, and ordinary expences correſponding thereto, and annualrent of the ſaid principal ſum, of all years and terms bygone reſting, owing, unpaid ſince the term of —— 17—— years, and in time coming during the not-payment thereof, for the equivalent like ſums contained in a bond granted by the deceaſed R. M. of F. to the ſaid deceaſed R. G. of O. dated the — day of —— 17—— years: And in like manner, decerning and ordaining the ſaid R. G. of S. to make payment to the ſaid G. C. of the ſum of —— money foreſaid of principal, with the neceſſary expences correſponding thereto, and annualrent of the ſaid principal ſum, of all years and terms bygone, reſting, owing, unpaid, and in time coming during the not-payment thereof, for the equivalent like ſum contained in a bond granted by the ſaid deceaſed R. M. to the ſaid deceaſed R. G. of O. dated the —— day of —— 17—— years, and which two bonds were borrowed up by the ſaid R. G. of S. under truſt, upon receipt, from the ſaid G. G. to uſe diligence for recovery thereof, which was no ways done: And ſicklike, decerning and ordaining the ſaid R. G. to make payment to the ſaid G. C. of the ſum of —— Scots money, as the liquidate price of each boll, of the number and quantity of —— bolls good and ſufficient victual, crop 17—— years, contained in a bond granted by A. R. of K. to the ſaid deceaſed R. G. dated the — day of —— 17--- years, which was borrowed up by him under truſt, upon receipt, from the ſaid G. for recovering payment thereof, in manner ſpecified in the ſaid decreet,

and

and likeways decerning and ordaining the ſaid R. G. to make payment to the ſaid G. C. of the ſum of —— money foreſaid of principal, with the neceſſary and ordinary expences correſponding thereto, and annualrent of the ſaid principal ſum, of all years and terms bygone, reſting, owing, unpaid, and yearly and termly in time coming, during the not-payment thereof, for the equivalent like ſum, contained in a bond granted by W. R. tackſman in O. to the ſaid deceaſed R. G. of O. dated the — day of —— 17-- years, borrowed up by the ſaid R. G. of S. from the ſaid G. G. under truſt, and upon receipt, as ſaid is, and to all which the ſaid G. C. had right by progreſs, in manner ſpecified in the ſaid decreet: *And ſicklike*, decerning and ordaining the ſaid R. G. of S. to make payment to the ſaid G. C. of the ſum of —— money foreſaid of expences of plea, as the ſaid decreet, of the date foreſaid, ordaining execution to paſs thereupon, in manner therein mentioned, at more length proports; (R) likeas, the ſaid G. C. and G. G. by their right, dated the —— day of —— laſt, diſponed the premiſſes in the purſuer's favours, with the declaration therein ſpecified, as the ſame alſo bears: *And ſicklike*, his Majeſty, Charles the ſecond, of ever glorious memory, with conſent of his Highneſs's eſtates of parliament, by the nineteenth act of the third ſeſſion of his Majeſty's ſecond parliament, holden at Edinburgh in the year One thouſand ſix hundred and ſeventy-two, entitled, *Act concerning adjudications*, and dated the 6th day of September the ſaid year, upon the conſiderations therein mentioned, ſtatute and ordained, That, in place of compriſings, Our Lords of ſeſſion, upon proceſs raiſed before them, at the inſtance of any creditor againſt his debitor, principal or cautioner, ſhall adjudge and decern to the creditor, in ſatisfaction of his debt, (as the ſame ſhall be decerned by the ſaids Lords,) ſuch a part of the debitor's eſtate, conſiſting in lands and other rights, which were in uſe to be appriſed, as ſhall be worth the ſum, principal, annualrent, then reſting to the creditor, and a fifth part more, in reſpect the creditor wants the uſe of his money, and is neceſſitate to take land for the ſame, beſides and attour the compoſition to the ſuperiors, and the expences of the infeftment, which adjudication ſhall be made according to the ſpecial rates of the lands, and other rights in the places where the ſame do ly; and for that effect, probation ſhall be taken by the ſaids Lords for the part of the creditor, and likewiſe for the part of the debitor, (if he ſhall deſire the ſame,) concerning the yearly rent and value of the ſaids lands and rights, and what they have paid for five years bygone, and what the ſame may pay, and rates and prices at which ſuch lands and rights are uſually ſold in theſe places of the kingdom where they ly; *with power* to the ſaids Lords to determine what warrandice the debitor ſhall be liable in to the creditor of theſe lands and rights ſo adjudged, as they ſhall find juſt; upon which decreet of adjudication, it ſhall be lawful to the creditor immediately to enter to the poſſeſſion of the lands, or other rights adjudged to him, and to intromit with the mails and duties thereof, in ſatisfaction of his annualrents, during the not-redemption, without being liable to a reſtriction, or action of compt and reckoning; and, in caſe there be lands adjudged, affected with liferents, or any caſualty or other right, not yielding rent during the running of the legal after

ter ſpecified, the ſame ſhall be expreſſed in the foreſaid decreet, together with that part of the ſum effeiring thereto, that, in caſe of redemption, the creditor may have his annualrent for that part of the ſum for which he had no profit, in manner foreſaid; which lands and other rights adjudged, as ſaid is, ſhall remain heritably and irredeemably with the creditor, in caſe it be not redeemed within the ſpace of five years after the decreet of adjudication, by payment or conſigning of the ſums, principal and annualrent, for which the adjudication did proceed, the compoſition paid to the ſuperior, and expences in obtaining infeftment, and annualrents of the ſame, in ſo far as it is not ſatisfied by the creditor's poſſeſſion, in manner foreſaid; and the creditor being once in peaceable poſſeſſion of the ſaids lands or rights, conform to the decreet of adjudication, it ſhall not be lawful for him to uſe any further execution againſt his debitor, (except in the caſe of eviction, upon the warrandice to be decerned by the ſaids Lords;) that it ſhall be leiſome to the creditor to uſe all manner of execution againſt his debitor, principal and cautioners, by horning, caption, arreſtment, or otherwiſe, until he enter to the actual poſſeſſion of the lands, to be adjudged in manner foreſaid: And it is thereby ſtatute and ordained, that no compriſing ſhould be led thereafter, in time coming, of any lands or other rights, which were not already compriſed, but prejudice always of any compriſings led before the date of the ſaid act, or to be deduced off lands, and other rights already appriſed, whereof the legals were not expired, which are to have courſe, conform to the laws and acts formerly made thereanent. It is likewiſe thereby provided and declared, that in caſe the debitor ſhall abſtract, and not produce the writs and evidents of the lands, and other rights to be adjudged, and ſhall not produce a ſufficient right thereof, and deliver the ſame, or tranſumpts thereof to the creditor, as the Lords ſhall judge neceſſary; and in caſe he ſhall not renounce the poſſeſſion of the lands, and other rights to be adjudged, and ratify the decreet of adjudication, to the effect the creditor may enter thereto ſummarily, without any impediment, ſo that the creditor may have a clear right and quiet poſſeſſion thereto; that then, and in that caſe, it ſhall be leiſome to the creditor to adjudge lands, or any right belonging to his debitor, in the ſame manner as he might have appriſed the ſame, conform to the act of parliament One thouſand ſix hundred and ſixty-one years, anent the payment of debts betwixt the debitor and creditor, in all points, under the reverſion, and with the power competent to other creditors expreſſed in the ſaid act: And it is declared by the ſaid act, that neither the ſuperior nor adjudger ſhall be thereby prejudged, but that they ſhall be in the ſame caſe after the ciration in the ſaid proceſs of adjudication, as if appriſing were led of the lands at that time, and a charge given to the ſuperior thereupon, as the ſaid act of parliament, appointing the ſaid decreet of adjudication to be allowed by our ſaids Lords, (as appriſings then were;) and the ſaid allowances to be regiſtered, in the ſame manner, and with the like certifications as that of compriſings, to the effect therein ſpecified, in itſelf more fully is contained: (W) *And true it is*, That the ſaid R. G. of S. has pertaintaining heritably to him, the lands and others after ſpecified, holden by him of the

the superiors after mentioned, *viz.* (*here leave a blank for filling up the lands, and of whom they hold, and then say,*) *And albeit it be of verity*, That the said pursuer, as having right, in manner foresaid, has oft and divers times desired and required the said R. G. of S. to have made payment to him of the foresaid sums, principal, annualrents, penalties (to be liquidate by the saids Lords to a fifth part of the principal sum, in manner under written) prices of the saids bolls, and expences of plea above mentioned; nevertheless, he wrongously refuses, postpones and defers to do the same, neither will he dispone or make conveyance to him of as much of the saids lands and estate, (at the pursuer's election,) as will correspond to, and satisfy and pay him of the said sums, principal, annualrents bygone, resting owing, and in time coming, and of the prices of the saids bolls, and expences of plea above mentioned, with a fifth part more, in place of the said penalties, besides the superior's composition and charges of the infeftment, or yet deliver to him the principal writs, at least judicial transumpts, to the extent of a legal progress of right, nor yet will he purge the real incumbrances thereon, renounce the possession, and observe what else prescribed by the said act upon the part of the debitor, without he be compelled; wherefore, necessary it is to the said pursuer to have the same, with the haill rights and securities thereof, legally adjudged, conform to, and in the terms of the said act of parliament, in manner after expressed, as is alledged. *Our will is therefore*, and We charge you, that ye lawfully summon, warn and charge the said R. G. of S. personally, or at his dwelling-place, on twenty-one days warning, and all others having or pretending to have interest in the said matter, by open proclamation, at the market cross of —— and other places needful, to compear before Our saids Lords of council and session, at Edinburgh, or where it shall happen them to be for the time, the —— day of —— if it be lawful, and, failing thereof, the next lawful day thereafter following, in the hour of cause, with continuation of days, to answer at the instance of the said pursuer in the said matter: *That is to say*, The said defender to bring with him, exhibit and produce before the saids Lords, the said day and place, in the hour of cause, with continuation of days, as said is, the haill writs and evidents, both old and new, of the saids lands and others foresaid, pertaining to him, heritably or otherwise, in manner above expressed, to be seen and considered by the saids Lords, to the effect they may judge and determine whether the right be sufficient, and the progress full and complete, and what warrandice they shall appoint; and in case it be found by them that the right is good, and the progress complete, as said is, and that the said defender purge the real incumbrances on the saids lands and estate, the said defender to hear and see such a part thereof, at the pursuer's election, adjudged and decerned, at the rate above specified; and after a legal probation adduced, in manner foresaid, to pertain and belong to the said pursuer, his heirs and assignees whatsomever, heritably, as will satisfy and pay them of the sums of money, principal, annualrents thereof due the time of the said adjudication, prices of the said victual, and expences of plea above mentioned, and a fifth part more in place of the saids penalties, extending

in the haill to the ſum of —— money foreſaid, and that by and attour the compoſition to the ſuperiors, and charges of the infeftment, and that the rent may be conſtitute, and the value of the lands to be adjudged known, and what they paid for five years preceding, and may be worth the time of the adjudication, and have paid and may pay in manner above expreſſed, and what the rates and prices at which ſuch lands are uſually ſold in theſe places of the kingdom, likewiſe known and determined by the ſaids Lords, to hear and ſee a mutual probation led and deduced thereanent, in manner ſpecified in the ſaid act of parliament, and under reverſion alſo, in manner, in the terms, and within the ſpace therein rehearſed; and farther, the ſaid defender to hear and ſee himſelf decerned and ordained, by decreet foreſaid, to deliver to the ſaid purſuer the ſaids writs and evidents, or judicial tranſumpts thereof, and to ratify the ſaid adjudication, and renounce the poſſeſſion to the ſaid purſuer and his foreſaids, in manner, and to the end above rehearſed; but in caſe the ſaids writs and evidents of the ſaids lands and others to be adjudged, be abſtracted and not produced, or that, after production, the right be not found good and ſufficient, and the progreſs full and complete, and do not deliver the ſame, or judicial tranſumpts thereof to them, as the ſaids Lords ſhall judge neceſſary, or in caſe he ſhall not renounce the poſſeſſion, and ratify the decreet of adjudication, to the effect above mentioned, and purge all real incumbrances, as ſaid is, then, and in that caſe, the ſaid defender to hear and ſee the haill lands and others above ſpecified, pertaining to him, adjudged from him, his heirs and ſucceſſors, and all others having or pretending to have intereſt, and decerned and declared, by decreet foreſaid, to pertain and belong to the ſaid purſuer, his heirs and aſſignees, heritably, for payment and ſatisfaction to them of the ſums of money, principals, annualrents, penalties, prices of the ſaids bolls, and expences of plea above written, contained in the ſaid decreet, extending in the haill to the ſum of ——— money foreſaid, *ſalvo juſto calculo*, together with the annualrent of the ſaid accumulate ſum after adjudication, and during the not-redemption, after the form and tenor of the ſaid decreet, precept therein contained, right and diſpoſition made to the ſaid purſuer thereof, and act of parliament aforeſaid, in all points, and in the ſame manner as he might have compriſed the ſame, conform to the act of parliament 1661 years, anent payment of debts betwixt debitor and creditor, alſo, in all points, under reverſion, and with the power competent to other creditors expreſſed in the ſaid act; to be holden the ſaids lands and others foreſaid, with the pertinents, lying as ſaid is, by the ſaid purſuer and his foreſaids, of the ſuperiors above mentioned, or of any others the immediate lawful ſuperiors of the ſame, and their ſucceſſors, ſicklike, in the ſame manner, and as freely in all reſpects, as the ſaid defender, or any of his predeceſſors and authors held, holds, or might have holden the ſame at any time before the ſaid adjudication, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaid defender, if he fail, Our ſaids Lords of council and ſeſſion will proceed in the ſaid matter, according to the order and method of the ſaid act of parliament, and adjudge, decern and declare accordingly, in manner foreſaid: And in like manner, that ye

lawfully

lawfully ſummon, warn and charge the ſaid defender, perſonally apprehended on ſix days warning, to compear before the ſaids Lords the — day of — thereafter, in the hour of cauſe, with continuation of days, to hear and ſee all neceſſary and lawful probation led and deduced in the ſaid matter, and to give and depone his oath of verity thereunto, in ſo far as ſhall not be proven by writ or witneſſes; with certification to him, if he fail, he ſhall be holden as confeſſed, and decreet given and pronounced againſt him in the ſaid matter, adjudging, decerning and declaring in manner foreſaid. According to juſtice, *&c.* *Attour*, That ye lawfully ſummon, warn and charge (*leave blank for four lines*) to compear before the ſaids Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, to bear leal and ſoothfaſt-witneſſing in the ſaid matter, in ſo far as they know, or ſhall be ſpeired at them therein, under all higheſt pain and charge that after may follow, as ye will anſwer to us thereupon.

Ex deliberatione Dominorum Concilii.

Nota, I wrote this ſummons upon the grounds aforeſaid, becauſe there is a liquidation in it (and in that extraordinary), whereas there is no difficulty in an ordinary ſummons.

As for this ſummons, I find ſome writers differ from it in the ſtyle, and ſhall only juſtify my own, not ſo much becauſe I judged it conſonant with the act of parliament, as that, before I paſſed the bill, or expoſed the ſummons to the ſignet, being the ſecond (if not the firſt), I had Sir George Lockhart's approbation to both bill and ſummons, (after he peruſed them); and likewiſe, I thought fit not to call ſuperiors in it (as in other adjudications), becauſe this, coming in place of apprifings, as there was no neceſſity to call the ſuperiors in the firſt, being allowed, and by the allowance, the ſuperiors ordained to infeft when they were ſubjects, and when the king was ſuperior, infeftment ordained to paſs by way of ſignature and compoſition in exchequer; ſo there was no more neceſſity to cite or call ſuperiors here, being likewiſe allowed, and the ſame method for infeftment appointed, as formerly in apprifings; yea, ſummar horning againſt ſubjects ſuperiors; and beſides, to cite ſuperiors, were no ſmall trouble and expence to the lieges, where they are remote and in iſles, (a thing all ſhould be tender of, without the law be poſitive for, and in it). And farther, (ſome writers having given warrant to convene ſuperiors, and a decreet of adjudication extracted conform) thoſe of the clerks chambers began to doubt, ſeeing my ſummons wanted the like; whereupon Mr. Thomas Hay, clerk, and I, went to my Lord Stairs, preſident, who (after he heard the matter) told, there was no ſuch thing enjoined by the act of parliament, or the leaſt neceſſity for it, upon the grounds above urged, and differed far from adjudications on decreets *cognitionis cauſa*, wherein the ſuperiors, and miniſters of ſtate, and director (when any lands held of the king otherways than burgage) were ſtill called by the law and ancient cuſtom of the kingdom; and without they were called (I mean ſubject-ſuperiors) there being no allowance whereupon horning might be had to force them, as in the other caſe, how ſhould they be obliged to enter, but by the favour and good-will of the ſuperior, who might prefer (in point of entry) the laſt to the firſt adjudger that gave him the greater compoſition? And ſo the law preſcribed remedies againſt both, *viz.* to call the ſuperior in the one, and to appoint the other to be allowed, and horning to paſs thereon, to compel the ſuperior: But againſt the king, no ſuch diligence; for being *communis pater*, he ever takes a moderate compoſition, and enters the appriſer or adjudger when the ſignature is preſented in the exchequer; after which judgment and determination of the preſident's, few or none thereafter ever in their ſtyles called the ſuperiors, being a great and unneceſſary burden and charge upon the lieges, which all employed ſhould obviate and prevent, as a part of their duty and fidelity to their clients and benefactors.

SUMMONS *of Adjudication on extreme Diligence in Matters not liquid, but consisting in Deeds prestable, whereof there be various Kinds; but this may serve for all* (mutatis mutandis), *and demonstrates what is necessary to be done before the Summons be raised, as afterwards appears.*

GEORGE, *&c.* To —— Our sheriffs in that part, conjunctly and severally, *&c.* That where the deceased A. B. of —— by his —— right and disposition, of the date the —— day of —— 17— years (for the onerous causes therein specified) sold, annulzied and disponed to the said pursuer, his heirs and assignees whatsoever, heritably and irredeemably, all and haill (*here insert the lands as in the right*) and bound and obliged him, his heirs and successors, duly and sufficiently to infeft and seise the said pursuer and his foresaids therein, heritably and irredeemably, as said is, by double infeftments, *à me et de me*, and by resignation, or confirmation, in their option, and to make, grant, subscribe and deliver to them sufficient dispositions, containing procuratories of resignation, charters containing precepts of sasine, and other securities requisite and necessary thereanent, with absolute warrandice, and other clauses needful; and, for that effect, granted procuratory of resignation, with a precept of sasine therein, in manner specified in the said disposition, which contains absolute warrandice against all incumbrances and grounds of eviction whatsoever, bygone, present and to come, with an assignation and right to the writs and evidents of the said lands, and to all tacks and rights of the teinds thereof, and annuities of the said teinds, and for giving judicial transumpts of such writs as contained other lands than those disponed, and making the principals themselves forthcoming, wherein transumpts should not be sufficient; and as to such writs as contained no other lands, to deliver the principals themselves, all upon inventory, with divers other obligements, articles and clauses conceived in favours of the said pursuer and his foresaids, as the same in itself more fully proports; whereupon the said pursuer (in respect he was not infeft base, or yet resignation made before the said A. B. his author deceased) raised summons, and intented action at his instance before Our Lords of council and session, against C. B. now of ——, as eldest lawful son and heir served and retoured to the said deceased A. B. at least lawfully charged to enter heir to him within forty days, conform to the act of parliament, and upon the remanent passive titles, for implement of the said disposition, in manner, and in the terms after expressed: And which summons and action being oft and divers times called in presence of the said Lords, and last of all upon the —— day of —— last bypast, the said Lords, by their decreet then given and pronounced by them in the said matter (for the causes therein mentioned), decerned and ordained the said C. B. as lawfully charged to enter heir to his said deceased father, and, upon the remanent passive titles libelled, to fulfil and perform to the said pursuer and his foresaids, the foresaid disposition made to them by the defender's father, in the haill heads, articles and clauses thereof; and for that effect, decerned and ordained the said C. B. defender, to obtain himself

ſelf duly and lawfully ſerved and retoured heir in general to his ſaid deceaſed father, and alſo ſerved, retoured and infeft as heir in ſpecial to him in the lands and others above diſponed, with the pertinents, and his ſaſine duly regiſtered, conform to the act of parliament; and being ſo ſerved, retoured, and infeft (now as then, and then as now) to ſell, annalzie, and diſpone, to the ſaid purſuer and his foreſaids, heritably and irredeemably, as ſaid is, the ſaids lands and others above ſpecified, contained in his father's diſpoſition above narrated, and to infeft and ſeiſe them therein by double infeftments, to be holden, and with warrandice in manner therein expreſſed, and that by reſignation or confirmation, in their option; and to make, grant, ſubſcribe, and deliver to them ſufficient diſpoſitions, containing procuratories of reſignation, charters containing precepts of ſaſine, and other ſecurities requiſite and neceſſary thereanent, with all clauſes needful; and to deliver to them ſuch of the ſaid writs and evidents as contain no other lands than what diſponed, with judicial tranſumpts of thoſe containing other lands, and to make the principals thereof forthcoming to them, in all caſes and cauſes wherein tranſumpts ſhall not be ſufficient; and to deliver to them the ſaids retours, precepts on the ſpecial retour, and ſaſine following on the ſame regiſtered, as the ſaid decreet, of the date foreſaid, in itſelf more fully is contained; whereupon the ſaid purſuer raiſed letters of horning, and, by virtue thereof, cauſed J. D. meſſenger paſs, upon the —— day of —— laſt bypaſt, and lawfully charged the ſaid C. B. to fulfil and perform to him, and his foreſaids, the ſaid diſpoſition granted to them by the ſaid deceaſed A. B. his father, in the haill heads, articles and clauſes thereof; and for that effect, to obtain himſelf ſerved and retoured heir in general, and likewiſe ſerved, retoured and infeft, as heir in ſpecial to him in the lands and others above diſponed, with the pertinents, and his ſaſine duly regiſtered as ſaid is; and being ſo ſerved, retoured, and infeft, (now as then, and then as now), to diſpone to the ſaid purſuer, and his foreſaids, the ſaid lands and others above ſpecified, heritably and irredeemably, and to infeft and ſeiſe them therein, by double infeftments, to be holden in manner abovementioned, and by reſignation or confirmation in manner foreſaid; and to make, grant, ſubſcribe, and deliver to them ſufficient diſpoſitions, containing procuratories of reſignation, charters containing precepts of ſaſine, and other ſecurities requiſite and neceſſary thereanent, with all clauſes needful; and to deliver to them the writs, containing no other lands than what diſponed, with judicial tranſumpts of ſuch as contain more lands, and make the principals thereof forthcoming, wherein tranſumpts not ſufficient: And in like manner, to deliver to them the ſaid retours, precept on the ſpecial retour, and ſaſine following on the ſame, regiſtered, and that within fifteen days next after the charge, under the pain of rebellion, and putting of him to the horn, with certification to him, in manner ſpecified in the ſaids letters; likeas, for his contempt and diſobedience, he was by —— meſſenger, upon the —— day of —— laſt, denounced rebel, and put to the horn, and regiſtered thereat, in the —— regiſter, by —— keeper thereof; and thereafter, the ſaid purſuer raiſed letters of general and ſpecial charge to enter heir at his inſtance againſt the ſaid C. B. upon the foreſaid decreet,

(and

(and relative to the foresaid letters of horning, charge given by virtue thereof, denunciation and registration aforesaid,) and, by virtue of the saids letters of general and special charge, caused H. M. messenger pass, upon the —— day of ——, and lawfully command and charge the said C. B. to obtain himself, not only duly and lawfully served and retoured heir in general, but also served, retoured, infeft, and seised, as heir in special to his said deceased father, in the lands and others abovementioned, and to obtain the undoubted, heritable, and irredeemable right thereof, and of all tacks and rights of the teinds and annuities of the same, established in his person, within forty days, conform to the act of parliament *ad hunc effectum*, that he might be in capacity to fulfil his said deceased father his disposition aforesaid, and decreet following thereupon; and being so served, retoured, and infeft, to divest and denude himself of the same, in favours of the said pursuer, and his foresaids, heritably and irredeemably as said is, and to infeft them therein by double infeftments *à me et de me*, and grant dispositions, charters, and other rights and securities thereanent requisite, with all clauses needful, in manner and in the terms above written, and to fulfil and perform to them the said disposition, in the haill remanent heads, articles, and clauses thereof, after the form and tenor of the same, decreet following thereupon, horning raised on the same, and executions thereof in all points, and made certification to him in manner specified in the said letters of general and special charges to enter heir, the days whereof are now elapsed, as the same, with the foresaid letters of horning, and executions of both, in themselves more fully is expressed: *And true it is*, That notwithstanding the said pursuer has used extreme diligence against the defender, by decreet, horning, charge, denunciation, registration, and general and special charges to enter heir to his said deceased father, and to obtain himself infeft accordingly, in manner *et ad effectum suprascriptum*, and for obtaining a right from him of the saids lands and others foresaid, in the terms above rehearsed; yet the said defender remains and continues contemptuous, and has given no obedience, wherethrough the pursuer lies out of his right, and thereby highly damnified and injured, and his interest in hazard and jeopardy, without remeid be provided, in manner under-written: And therefore (and in supplement of the said defender's contempt, and for making up the pursuer and his foresaids their right to the said lands and others foresaid) the foresaid lands, and others above and after specified, disponed by the said deceased A. B. to the pursuer in manner foresaid, *viz. (here insert the lands ——as in the disposition, and then say)* together with the haill writs and evidents thereof, tacks and rights of the teinds of the same, and annuity of the said teinds, made and granted by whatsomever person or persons, of and concerning the same, to the said A. B. or his predecessors, cedents, and authors, or any ways competent to, or introduced in their favours, or that might be competent to the said C. B. had he been served and retoured heir in general, and also served, retoured, and infeft, as heir in special to him, in manner above expressed, ought and should be adjudged, by decreet of Our said Lords of council and session, from the said C. B. (as he who was discussed by horning, and lawfully charged to enter heir general and special

to

to his ſaid deceaſed father as ſaid is, and to obtain himſelf infeft as heir in ſpecial, in manner foreſaid, in the lands and others above-mentioned, in manner, and to the effect above expreſſed) and from his heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, at the inſtance, and to and in favours of the ſaid purſuer, his heirs and aſſignees whatſomever, heritably and irredeemably, with the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid, teinds thereof, and annuities of the ſame, of the crop and year 17— years, (being the crop of the purſuer's entry thereto, by virtue of the ſaid diſpoſition) ſinceſyne, and yearly and [illegible]ly in all time coming, and decerned, ordained, and declared to appertain and belong to the ſaid purſuer and his foreſaids, and to be ſet, raiſed, uſed, and diſpoſed upon by them, as their own proper lands, heritage, writs, evidents, and mails and duties, at their pleaſure, in all time coming, and they ordained to be heritably infeft and ſeiſed in the ſaid lands and others foreſaid, in manner underwritten, conform to the foreſaid diſpoſition and right, decreet following thereupon, legal diligence aforeſaid, and laws and daily practique of this kingdom, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. B. as he who was diſcuſſed by legal diligence, as ſaid is, and H. D. of —— ſuperior of the ſaid lands and others foreſaid, for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of —— and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter; *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified, and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders to hear and ſee the foreſaid lands and others above ſpecified, with the pertinents, together with the haill writs and evidents thereof, tacks and rights of the teinds of the ſame, and annuities of the ſaid teinds, made and granted by whatſoever perſon or perſons, of, and concerning the ſame, to the ſaid A. B. or his predeceſſors, cedents, and authors, or any ways competent to, or introduced in their favours, or that might be competent to the ſaid C. B. had he been ſerved and retoured heir in general, and alſo ſerved, retoured, and infeft as heir in ſpecial to his ſaid deceaſed father, in manner above expreſſed, adjudged, by decreet of Our ſaid Lords of council and ſeſſion, from the ſaid C. B. (as he who was diſcuſſed by horning, and lawfully charged to enter heir general and ſpecial to his ſaid deceaſed father, as ſaid is, and to obtain himſelf infeft as heir foreſaid in ſpecial, in the lands and others above mentioned, in manner, and to the effect above expreſſed) and from his heirs and ſucceſſors, and all others having, or pretending to have intereſt in the ſaid matter, at the inſtance, and to and in favours of the ſaid purſuer, his heirs and aſſignees whatſoever, heritably and irredeemably; and the ſame, with the haill maills, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid, teinds thereof, and annuities of the ſame, of the ſaid crop and year 17— years, (being the crop of the purſuer's entry, by virtue of the

ſaid

ſaid diſpoſition) fince ſyne, and yearly and termly in all time coming, decerned, ordained and declared to appertain and belong to the ſaid purſuer and his foreſaids, and to be uſed and diſpoſed upon by them, as their own proper lands and heritages, writs and evidents, mails and duties at their pleaſure in all time coming; and the ſame being ſo adjudged, decerned and declared, in manner foreſaid, the ſaid H. D. as ſuperior foreſaid, to hear and ſee himſelf decerned, by decreet foreſaid, to enter and receive the ſaid purſuer and his foreſaids, as vaſſals and heritable tenants to him in the ſaid lands and others above mentioned, with the pertinents, and to infeft and ſeiſe them heritably and irredeemably therein, and to make, grant, ſubſcribe and deliver to them a ſufficient charter, containing precept of ſaſine, and all other clauſes needful for that effect, in due and competent form, to be holden of the ſaid H. D. his heirs and ſucceſſors, as ſuperiors thereof, ſicklike, in the ſame manner, and as freely in all reſpects, as the ſaid deceaſed A. B. or any of his predeceſſors and authors held the ſame, or as the ſaid C. B. might have holden the ſame, (had he been ſerved, retoured and infeft as heir in ſpecial to him in manner foreſaid) and letters of horning ordained to be directed againſt him thereanent, on a ſimple charge of twenty-one days, conform to the foreſaid right and diſpoſition, decreet following thereupon, legal diligence aforeſaid, and laws and daily practique of this kingdom heretofore inviolably obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and adjudge, decern and declare in manner foreſaid. According to juſtice, as ye will anſwer, *&c.*

This ſummons needs no ſecond diet, becauſe all is proven by writ; but it is like, the ſignet will require a bill; which, if they do, may be compendiouſly written thus:

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth —— That where A. B. of —— having, by diſpoſition, of date the —— day of —— 17---- years, diſponed to me, my heirs and aſſignees whatſoever, heritably and irredeemably, the lands of ---- and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe me and my foreſaids therein, by double infeftments, to be holden, and with abſolute warrandice, in manner therein ſpecified, and by reſignation or confirmation, in our option, and to grant all rights requiſite thereanent; and which diſpoſition contains procuratory of reſignation, precept of ſaſine, aſſignation to the writs and evidents, and tacks and rights of teinds, and annuities thereof, and to the mails and duties, crop 17---- years, and thereafter in time coming, with an obligement for delivery of ſuch writs as contained no other lands, and tranſumpts of ſuch as contained others, and to make the principal forthcoming, wherein tranſumpts not ſufficient: And my ſaid author deceaſing before I was baſely infeft, or made reſignation, I purſued C. B. now of ---- as eldeſt lawful ſon and heir, ſerved and retoured to him, and upon the remanent paſſive

paſſive titles before your Lordſhips, for implement of the ſaid diſpoſition, and upon the —— day of —— obtained decreet, decerning him to do the ſame; and thereupon raiſed horning, by virtue whereof he was charged, denounced, and regiſtered at the horn for his diſobedience; and thereafter I raiſed new letters relative to all, and cauſed charge him to obtain himſelf ſerved and retoured heir in general, and alſo ſerved, retoured and infeft, as heir in ſpecial to his ſaid deceaſed father, and thereby diſcuſſed him by the extreme diligence aforeſaid; in reſpect whereof, the ſaid lands and others foreſaid, with the evidents thereof, tacks and right of the teinds of the ſame, and annuities of the ſaid teinds and duties of the ſaid lands, with the ſaid teinds and annuities, crop 17—— (being the crop and year of my entry by the ſaid diſpoſition,) ſinceſyne and in time coming, ought and ſhould be adjudged from him, as he who was diſcuſſed, as ſaid is, and from his heirs and ſucceſſors, and all others having or pretending to have intereſt, in favours of me and my foreſaids, heritably and irredeemably, and decerned, ordained and declared, by your decreet, to pertain and belong to us, as our own proper heritage, writs, evidents, teinds, annuities, mails and duties, at our pleaſure in time coming, and ordained to be infeft therein by —— ſuperior thereof, to be holden as the ſaid deceaſed A. B. ----- held the ſame, or his ſaid ſon might have holden the ſame, had he entered as ſaid is; and letters of horning to be directed for that effect, on a ſimple charge of twenty-one days, conform to the ſaid diſpoſition, decreet, diligence, laws and practique of this kingdom, *&c.* in all points. *Herefore*, I beſeech your Lordſhips, that I may have ſummons of adjudication in the premiſſes againſt the ſaid C. B. as he who was diſcuſſed by legal diligence, in manner foreſaid; and the ſaid ------ ſuperior for his intereſt, and all others, *&c.* by open proclamation, *&c.* (*as I pleaſe libel*,) to be called on a ſingle diet of twenty-one days, all being proven by writ, conform to your Lordſhips daily practique and order uſed and obſerved in the like caſes, and deliverance to be granted thereanent, in all points, and your Lordſhips anſwer.

Nota, If the king be ſuperior, the miniſters of ſtate and director muſt be called, and the purſuer ordained to be infeft, by way of ſignature and compoſition in exchequer.

Nota, As the title and ſtrain of the former ſummons upon extreme diligence, in matters not liquid, gives ſome account of what is requiſite to be done, ſo, I thought fit to put you in mind, That, 1. Sometimes when parents marry their daughters, and have the gentleman who is the husband, or his father, bound to infeft them in lands in liferent, or in a yearly annuity out of the lands during life, they neglect to take infeftment, beſides to obtain the ſame confirmed by the ſuperior; ſo that, if the husband or his father, who died laſt infeft, deceaſe, the gentlewoman muſt charge the apparent heir to enter, and the days being elapſed, thereafter raiſe ſummons upon the paſſive titles; and, if he renounce, the former courſe in that caſe muſt be taken, *viz.* to extract a decreet *cognitionis cauſa*, and thereupon to intent adjudication, and, obtaining decreet, may be infeft by the ſuperior; but if the apparent heir do not renounce, but ſuffer decreet to paſs againſt him, as lawfully charged to enter heir, then he muſt firſt be charged with horning, denounced and regiſtered, and then a ſpecial charge raiſed relative to, and founded upon the decreet, horning, charge, denunciation and regiſtration, and that in contempt, and to her prejudice, he lies forth, and will not enter heir in ſpecial to his predeceſſor,

bound in the contract, in the lands and others liferented, or out of which the annuity is yearly upliftable, (which muſt be particularized,) and obtain himſelf infeft accordingly therein, to the effect he may be in a capacity to fulfil the ſaid contract, and infeft her therein; and to conclude as in the former ſtile, upon extreme diligence, *mutatis mutandis*. 2. The like caſe may fall out, when there is a minute paſſed betwixt two parties, anent the emption and vendition of lands, wherein probably the ſeller may be apparent heir, but not infeft as heir to his predeceſſor, who was *ultimo veſtitus*: And it is like, his circumſtances may be ſuch, as, after he is charged to enter, and decreet obtained for that effect, he will not, nor dare enter, becauſe of incumbrances; in which caſe, the former diligence and courſe muſt be taken: And many more of this kind may occur, tedious to come over.

SUMMONS *of Declarator of Moſſes.*

GEORGE, *&c.* That where the ſaid purſuer ſtands heritably infeft and ſeiſed in all and ſundry the lands of —— moſſes, muirs, parts, pendicles, and pertinents thereof, lying within the ſheriffdom of ---- as the inſtrument of ſaſine granted to him thereupon, duly regiſtered, conform to the act of parliament, in itſelf more fully proports; by virtue whereof, the ſaid purſuer, and alſo his predeceſſors and authors, conform to their rights and infeftments, have been in the peaceable poſſeſſion of the moſſes of ---- as the proper, peculiar, and incontrovertible moſſes of the ſaid lands, paſt all memory of man, not only by caſting, winning, leading, and away-taking peats and fuel forth thereof, by themſelves and their tenants, for the uſe of the ſaid lands, and others foreſaid, yearly, but alſo, by ſecluding and debarring all other perſons therefrom, and from having acceſs to, or ſhare therein, and yet, notwithſtanding thereof, A. B. of ---- C. D. of ---- W. H. of ---- M. Y. of ---- next adjacent heritors to the ſaids purſuer's lands, and moſſes aforeſaid, and ---- their tenants, ſervants, cottars, and dependers, without any title, right or intereſt, in the year 17---- years, came to the ſaid moſſes, and, in the purſuer's abſence, did caſt their peats and other fuel therein, and carried the ſame away afterwards to their reſpective habitations and poſſeſſions, and damnified the purſuers in the ſum of ---- and intend, as would appear, to do the like in time coming, thinking thereby, (and in proceſs of time,) to appropriate the ſaid moſſes to themſelves, if not in property, yet at leaſt in commonty to their own lands, and their ſucceſſors, heritors, tenants, and poſſeſſors thereof, to the purſuer's great hurt and prejudice, without remeid be provided thereto; and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of Council and ſeſſion (6) that the ſaid moſſes of ---- are the proper, peculiar, and incontroverted moſſes of the ſaid purſuer his lands aforeſaid, and that he, and his predeceſſors and authors, heritors thereof, and their tenants, have been in the continued and immemorial poſſeſſion of the ſame as ſuch, not only by caſting, winning, leading, and away-taking peats and other fuel therein, and forth thereof, by themſelves and their tenants, for the uſe of the ſaid lands and others foreſaid, yearly as ſaid is, but alſo, by ſecluding and debarring

barring all other perſons therefrom, and from having acceſs to, or ſhare therein, in manner above expreſſed, and that any pretended poſſeſſion, apprehended by the defender laſt year, was clandeſtine and ſurreptitious, and without any right or order of law, and in abſence, and without knowledge or conſent of the purſuer, the ſole and undoubted heritor of the ſaid moſſes, wherethrough they have damnified and prejudged the ſaid purſuer in the ſaid ſum of ----; and the ſame being ſo found and declared, the ſaid defenders ought and ſhould be decerned, not only to make payment to the ſaid purſuer of the foreſaid ſum of ---- (wherein he is by them damnified and prejudged, as ſaid is,) but alſo, they, and their heirs and ſucceſſors, and tenants and poſſeſſors of the ſaid adjacent lands, ought and ſhould be decerned and ordained to deſiſt and ceaſe from all coming to the ſaid moſſes, or caſting, winning, leading and away-taking of peats, or any other fuel therein, or forth thereof, and from all further troubling, moleſting, and diſquieting the ſaid purſuer, his heirs and ſucceſſors, and their tenants and inhabitants of the ſaid lands and others foreſaid, in the peaceable poſſeſſion of the ſaid moſſes thereof, any manner of way in time coming, conform to the ſaid purſuer, and his ſaid predeceſſors and authors, their heritable rights and infeftments of the ſame, and continued, and immemorial poſſeſſion by virtue thereof, laws and daily practique of this Our realm, heretofore inviolably uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid ---------- defenders, heritors of the ſaid adjacent lands, and the ſaid ----- their tenants, perſonally, or at their dwelling-places, on twenty-one days warning, and all others, *&c.* by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders to hear and ſee it found and declared, by decreet foreſaid, that (*to conclude*, ut ſupra, *from this* (6) *figure*, *till ye come to*, as is alledged; *only*, *for the words* ought and ſhould, *above*, *ſay*, *in the will*, to hear and ſee, *and then ſay*, or elſe to alledge, *as in the other ſummons*:) With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare, in manner foreſaid; (*and then conclude a ſecond diet*:) According to juſtice, as ye will anſwer, *&c.*

Needs no bill.

SUMMONS *of Diviſion of Moſſes, where ſeveral Heritors have Right as to particular Lands, and ſome of them not only bring in other Lands upon the Moſſes, but allow their Men to caſt and ſell Peats to Burghs and Villages adjacent, and thereby exhauſt the Moſſes, to the Prejudice of the other Heritors.*

GEORGE, *&c.* That where the ſaid purſuer, as heritor of the lands of ----- and A. B. of ----- as heritor of the lands of —— C. D. of —— as heritor of the lands of ----- H. D. of ----- as heritor of the lands of ----- having equal right of property in the moſſes of ----- and that accordingly they and their predeceſſors and authors, by virtue of their reſpective rights and infeftments, were and are in the peaceable, incontrovertible, and immemorial poſſeſſion thereof, by themſelves and their tenants, and poſſeſſors of the ſame, for the uſe and behoof of their reſpective lands and intereſts allenarly, and that they were never in uſe to make any other uſe of the ſaid moſſes, but for the uſe and ends aforeſaid; *yet true it is, and of verity*, that the ſaid A. B. C. D. and H. D. and ----- their tenants, cottars, and mailers and ſervants, have, theſe ----- years bygone, not only caſt, win, led, and away-taken peats and other fuel out of the ſaid moſſes, for the uſe of the ſaid lands, that have really right and intereſt therein, but alſo, under that pretence, give liberty to other lands of ----- belonging to them, and who have no right thereto, to caſt therein; and likewiſe do caſt, lead, win, and away-take great quantities and numbers of loads of peats, and other fuel forth thereof, upwards of two thouſand loads, and gift, ſell, and diſpoſe thereupon, to the burghs, towns, villages, and neighbours adjacent, yea tranſport conſiderable quantities in boats over ferries and rivers adjacent, at ſuch rates and prices as they can agree upon, thereby, in proceſs of time, to conſume and exhauſt the ſaid moſſes, ſo as not only themſelves, (who are the occaſion thereof,) but alſo, the purſuer, his heirs and ſucceſſors, and the tenants and poſſeſſors of the ſaid lands and eſtate belonging to him, (and who make no other uſe of the ſaid moſſes, but for the lands belonging to the purſuer, who had and have entire, real, and proper intereſt therein,) will want moſſes and fire, which will turn their lands lee, and their eſtates waſte and unprofitable: *And albeit it be of verity*, that the ſaid purſuer has made ſeveral interruptions, under form of inſtrument, and otherwiſe, to the ſaid illegal encroachments and innovations, ſo much tending to the purſuer's damage and prejudice, and ruin of his eſtate; and that he has oft and divers times deſired and required the ſaid defenders, either to deſiſt and ceaſe from the like in time coming, or elſe to divide the ſaid moſſes, equally and proportionally effeiring and correſpondent to their reſpective eſtates, and real intereſts, having juſt right thereto, and to ſet down march-ſtones accordingly, for eviting all future debates and controverſies that may ariſe thereanent; nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled: And therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid purſuer,

as

as well as the ſaid defenders (6) have equal right and intereſt to the ſaid moſſes, effeiring and correſpondent to the ſaid particular lands above ſpecified, by virtue of their own and predeceſſors and authors their rights and infeftments of the ſame, and for no other end or uſe; and that accordingly, they, by themſelves, and their tenants and poſſeſſors of the ſaid lands, have been in the peaceable, continual, and incontrovertible poſſeſſion thereof; and that the ſaid defenders their other lands of ----- aforeſaid, and tenants and poſſeſſors thereof, have no right, ſhare or privilege therein, and far leſs to caſt peats, or other fuel or fire in the ſame, for ſale or profit, and to the deſtruction of the ſaid moſſes in manner foreſaid; and the ſame being ſo found and declared, the ſaid defenders, as heritors of the ſaid lands of ----- and their ſucceſſors therein, and their tenants and poſſeſſors of the ſame, ought and ſhould be decerned and ordained, by decreet of Our Lords of council and ſeſſion, either to deſiſt and ceaſe from all coming to the ſaid moſſes, or caſting, winning, leading, and away-taking of peats, or other fuel, in or forth thereof in time coming, for the uſe of theſe other lands; as alſo, even the ſaid defenders, as heritors, tenants and poſſeſſors of the ſaid lands of ----- (who, and the purſuer, have only right thereto, as ſaid is,) ought and ſhould be decerned and ordained to deſiſt and ceaſe from caſting, winning, leading, and away-taking of any peats or other fuel therein, to ſell or diſpoſe upon to the neighbouring burghs, towns and villages, or any other perſon or perſons whatſoever in gift, for money, or otherwiſe, but merely and allenarly for the uſe of the ſaid lands who have right thereto; or otherwiſe, the ſaid moſſes ought and ſhould be ordained by the ſaid Lords, to be divided equally and proportionally betwixt the ſaid purſuer and defenders, effeiring and correſpondent to their reſpective eſtates and real intereſts, having juſt right thereto, and a mutual probation and commiſſion granted for that effect, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid ----- heritors of the ſaid lands of ----- and the ſaid ----- their tenants, perſonally, or at their dwelling-places, on twenty-one days warning, and all others, *&c.* by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the ſaid purſuer, as well as the ſaid defenders, (*to conclude* ut ſupra *from this* (6) *figure*, *till ye come to*, as is alledged; *only*, *for* ought and ſhould, *ſay*, to hear and ſee, *and then*, or elſe, *&c.* With certification, *&c. and a ſecond diet as in the former ſummons.*)

SUMMONS:

SUMMONS *of Declarator at the Inſtance of an Appriſer or Adjudger, againſt a Superior, being a Subject, to amit and tyne the Superiority and Caſualties during Life, after he was charged, denounced and regiſtered, and likewiſe charged to enter Heir in ſpecial in the Superiority.*

GEORGE, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. of —— That where, by decreet and proceſs of appriſing led and deduced within the new ſeſſion-houſe of Edinburgh (6), before J. H. meſſenger, judge and ſheriff in that part, and his colleagues, upon the — day of — 17— years, the ſaid purſuer obtained, lawfully appriſed to him, his heirs and aſſignees whatſoever, heritably, from C. D. of —— his heirs and ſucceſſors, and all others having or pretending to have intereſt in the ſaid matter, all and haill (*here inſert the lands as in the appriſing*) lying within the pariſh of —— and ſheriffdom of ——, for payment to the purſuer and his foreſaids of the ſums of money, principal, annualrents, and expences contained in the ſaid appriſing, extending, at the term of —— to the ſum of —— Scots money, and of the ſheriff-fee effeiring thereto, extending to the ſum of —— money foreſaid, *ſalvo juſto calculo*, and which appriſing was allowed by the Lords of council and ſeſſion upon the —— day of —— thereafter (8), and whereupon the purſuer raiſed letters of horning againſt W. H. of —— ſuperior of the ſaid lands, and, by virtue thereof, (after he produced to him a charter to be ſubſcribed, with a year's rent of the lands appriſed, under form of inſtrument in —— notary public his hands, and by the ſaid ſuperior refuſed) cauſed J. H. meſſenger, upon the —— day of —— alſo thereafter —— in Our name and authority, lawfully charge him perſonally apprehended, and delivered to him a juſt and authentic copy of the ſaid letters, to infeft and ſeiſe the ſaid purſuer and his foreſaids, heritably, (under reverſion, conform to the act of parliament) in the lands and others above appriſed, with the pertinents, within twenty-one days next after the charge, under the pain of rebellion, and putting of him to Our horn, and for his diſobedience was denounced thereto, upon the —— day of —— thereafter, and regiſtered thereat the —— day of the ſame month; likeas, the purſuer thereafter, (and after ſearch of the public regiſters) finding, albeit he was heir apparent, yet was not actually ſerved, retoured and infeft as heir in ſpecial to the deceaſed J. H. of —— his father, in the ſuperiority of the ſaid lands, ſo that any entry the purſuer, as appriſer, might obtain from him (ſhould he deceaſe before his entry, and being infeft as heir foreſaid) would prove ineffectual; and conſidering the debt for which he appriſed, was conſiderable, (almoſt adequating the value of the eſtate appriſed) he thereupon meaned himſelf to the Lords of Our council and ſeſſion, and, by their deliverance, obtained letters of ſpecial charge to enter heir at his inſtance, againſt the ſaid W. H. (founded upon the ſaid appriſing, allowance thereof, and diligence above ſpecified uſed thereon) and by virtue thereof, cauſed the ſaid J. H. meſſenger, paſs upon the —— day of —— laſt bypaſt, and lawfully charged the ſaid W. H. perſonally apprehended, (and delivered to him a juſt and authentic copy thereof)

thereof) to obtain himſelf duly and lawfully ſerved, retoured, infeft and ſeiſed as heir in ſpecial to his ſaid deceaſed father, in the ſuperiority of all and ſundry the lands and others above appriſed, with the pertinents, lying as ſaid is, within forty days, conform to the act of parliament, to the effect he might be in capacity to enter and receive the purſuer, and his foreſaids, as vaſſals, and heritable tenants to him therein, and grant to them a legal and valid charter thereupon, in due and competent form, to be holden of him, his heirs and ſucceſſors, the ſame way and manner, and for payment of the duties, or other ſervices contained in the ſaid C. D. and his predeceſſors and authors their rights and infeftments of the ſame, at any time before the ſaid appriſing, and with certification to him, if he failed, he ſhould amit and tyne the right of ſuperiority thereof, and caſualties of the ſame during his lifetime, and it ſhould be lawful to the purſuer, and his foreſaids, to take an entry from his ſuperior in the ſame way and manner as he might have taken of him if he were entered and infeft as heir foreſaid, and that conform to the laws of this kingdom, and practique thereof, uſed and obſerved in the like caſes, in all points; and that notwithſtanding, he wilfully lay forth, and would not obtain himſelf entered and infeft as heir foreſaid to his ſaid deceaſed father, in manner above expreſſed, as the ſaid decreet of appriſing, duly allowed, as ſaid is, together with the ſaid charter offered, inſtrument taken thereupon, regiſtered horning, and ſpecial charge, with the executions thereof, in themſelves more fully proport: *And true it is*, that the ſaid ſpace of forty days is bygone and expired, and yet no obedience given thereto, or to the former diligence uſed againſt the ſaid W. H. notwithſtanding of the offer made, and which was all that was preſtable, or poſſible for the purſuer in law to do, wherethrough his high and manifeſt contempt of Our authority, and the great damage and prejudice the purſuer and his foreſaids are like to ſuſtain and incur by lying out of his right, and an entry, is moſt clear and apparent; and therefore, it ought and ſhould be found and declared by decreet of Our Lords of council and ſeſſion, that the ſaid W. H. (6) has been moſt contemptuous, (after the ſaid ſeveral charges given to him to the effect foreſaid,) to ly out, and not obtain himſelf entered and infeft as heir foreſaid, to his ſaid deceaſed father, in the lands and others above mentioned, pertaining and belonging to him in ſuperiority, in manner foreſaid, and thereby damnified and prejudged the purſuer and his foreſaids, in the courſe of their diligence and right, and as to the compleating thereof, by a legal and lawful entry, in the property of the lands and others above appriſed, with the pertinents, for the ſecurity of his juſt and lawful debt, and that therethrough the defender has amitted and tint the right of ſuperiority of the ſaid lands and others foreſaid, holden of his ſaid father, as ſaid is, (and wherein he might have obtained himſelf entered and infeft as heir in ſpecial to him, in manner above rehearſed), together with the haill benefit and caſualties of the ſaid ſuperiority, during all the days of his lifetime; and that it ſhall be lawful to him and his foreſaids, to obtain themſelves infeft therein, by the ſaid W. H. defender, and his ſaid deceaſed father, their immediate lawful ſuperiors, in manner after expreſſed: And the ſame being ſo found and declared, the ſaid purſuer and his foreſaids ought and ſhould be decerned

cerned, by the ſaid Lords their decreet, to be infeft and ſeiſed in the ſaid lands of ——, with the pertinents, lying, as ſaid is, by Us and Our royal ſucceſſors, as ſuperiors to the defender and his ſaid deceaſed father therein, and that by way of ſignature and compoſition in Our exchequer, and by H. D. of ——, immediate lawful ſuperior to the ſaid defender in the ſaid lands of ------, with the pertinents, lying in manner foreſaid, and letters of horning ordained to be directed againſt him and his heirs and ſucceſſors for that effect, upon a ſimple charge of twenty-one days, in manner under-written, to be holden the ſaid lands and others foreſaid (7) in manner after-expreſſed, and the ſaid reſpective entries in the reſpective lands declared to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, to the ſaid purſuer and his foreſaids in time coming, as if the ſaid defender had been entered and infeft as heir foreſaid in the ſaid ſuperiority, and thereafter granted an entry himſelf to the purſuer and his foreſaids, conform to the laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid W. H. apparent heir aforeſaid, (and as he who was diſcuſſed by horning, and likewiſe charged to enter heir in ſpecial to his ſaid deceaſed father in the ſaid ſuperiority, in manner, and within the ſpace above expreſſed, now expired and elapſed, as ſaid is), and alſo ------- Our miniſters of ſtate, for Our intereſt, as to the ſaid lands and others foreſaid, holden by the defender, at leaſt his ſaid deceaſed father, of Us, as ſaid is; and in like manner, the ſaid H. D. of ------- ſuperior of the other lands, and others above appriſed, lying in manner foreſaid, for his intereſt, perſonally, *&c.* on twenty-one days warning, and all others having, *&c.* by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared by decreet foreſaid, that the ſaid W. H. defender, (*take in the ſubſumption from the figure* (6), *till ye come to the figure* (7), *only in the concluſion, for* ought and ſhould, *ſay*, to hear and ſee, *and then ſay*,) of Us and Our royal ſucceſſors, and the ſaid H. D. of -------- his heirs and ſucceſſors, as the reſpective ſuperiors to the ſaid defender, (at leaſt to his ſaid deceaſed father therein), and that during all the days of the ſaid defender his lifetime, ſicklike, and as freely in all reſpects, as the perſon againſt whom the ſaid appriſing was led, held the ſame of the ſaid deceaſed J. H. or as the ſaid purſuer might have holden the ſame of the ſaid W. H. had he been entered and infeft as heir in ſpecial to his ſaid deceaſed father, in manner above expreſſed; and the ſaid reſpective entries in the ſaid reſpective lands, declared to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, to the ſaid purſuer and his foreſaids, in time coming, as if the ſaid defender had been entered and infeft as heir in ſpecial to his ſaid deceaſed father in the ſaid ſuperiority, and thereafter granted an entry himſelf to the ſaid purſuer and his foreſaids, conform to the laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a

reaſonable

reasonable cause, &c. With certification, &c. the said Lords will find, decern, and declare in manner foresaid: According to justice, as ye will answer, &c.

Needs no bill.

SUMMONS *at the Instance of a Person against whom another Person commenced an Action for vast Sums of Money, and thereupon inhibited and arrested all his Money and Goods, and yet will not insist, but protracts Process, to the great Prejudice of his Credit and Fortune; and therefore craving he may insist and conclude his Action within Year and Day,* &c. *or never be heard.*

GEORGE, &c. Whereas it is humbly meant and shown to us, by A. B. of —— That where W. M. merchant-burgess of ——— has raised summons, and intented action at his instance, before Our Lords of council and session, against the said pursuer, not only for the sum of —— Scots money; resting by him to the said W. M. by ticket, and whereof he offered payment under form of instrument, but also for above 20,000 merks money foresaid, alledged otherwise resting by the pursuer to him, upon most fallacious and patched up grounds therein libelled, and even before executing of the said summons (so as the pursuer might have some knowledge thereof, and endeavour to convince him of his error and malice in so unwarrantable and groundless a pursuit, and, by mediation of friends, bring matters to a friendly adjustment and accommodation without law or hearing) the said W. M. most maliciously and unjustly, upon his said summons, raised letters of inhibition and arrestment against the pursuer, and, by virtue thereof, has caused a messenger not only inhibit him at his dwelling-house, and at the market-cross upon a public market-day, betwixt 11 and 12 of the clock in the forenoon, when the greatest confluence of people behoved to be present, but also has arrested all his mails and duties, debts, sums of money, and what else moveable, pertaining and belonging to him, thereby, if possible, to irritate and stir up such lawful creditors as he is really addebted to, and oblige them to real and personal diligence against his estate and person, and to ruin his credit, and in that his wife, children, and family; and, to screw up his malice and design to a higher pitch (and that the pursuer may ly under the character of being in a bad and desperate condition) will not insist in his process, but, on the contrary, when the pursuer puts up a protestation for not insisting, he produces the same called, and thereupon obtains the protestation scored in the ordinary course, and thereby obliged the pursuer to attend personally in Edinburgh these —— months, to his great trouble and expence, besides his absence from his family and affairs; and however, when debts are just, such diligence be allowed, yet in law (where pursuits are malicious and groundless, and diligence thereon so severe, and, by the not prosecution thereof, so as the same may be brought to a period, the defender is prejudged and highly damnified in his estate and credit) the

remedy of obliging the purſuer to inſiſt, has ever been ſuſtained and allowed, and in the terms following: Wherefore, neceſſary it is for the ſaid purſuer to have theſe Our ſummons for inſiſting, directed at his inſtance againſt the ſaid W. M. in manner, and to the effect after ſpecified, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid W. M. purſuer of the ſaid action, perſonally, or at his dwelling place, on ſix days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid A. B. of —— purſuer of this action of inſiſting; *That is to ſay*, The ſaid W. M. to bring with him, exhibit, and produce, before the ſaid Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, the ſaid pretended principal ſummons raiſed by him againſt the purſuer in the premiſſes, with the executions thereof, letters of inhibition and arreſtment raiſed thereupon, with the executions thereof, and grounds whereupon the ſaid ſummons proceeded, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſaid W. M. decerned and ordained, by decreet of the ſaid Lords, to inſiſt in his ſaid unjuſt and malicious purſuit, and to bring the ſame to a final cloſe, within year and day after the calling of the ſaid ſummons, ſo as by the event the certainty of what is juſtly due by the purſuer to the ſaid W. M. and conſequently how far the purſuer has been, and may yet be injured by him, may be known to the ſaid Lords, and thereafter they do therein, and as to the purſuer's charges and damage, whereof he ſhould be reimburſed, as in juſtice they think fit; or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defender, if he fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find and declare the ſaid A. B. his heirs, executors, and ſucceſſors, liberate and free of the ſaid purſuit, and haill import and contents thereof, and of the haill diligence raiſed and executed thereon; and the ſaid defender in this action, and purſuer of the ſaid firſt and malicious action, nor his heirs, executors, and ſucceſſors, ſhall never be heard therein, or in any other action or purſuit for that cauſe, or upon that account, in any time coming, conform to the laudable laws and practique of this kingdom, uſed and obſerved in the like caſes in all points. *(This ſummons needs no ſecond diet, but ſhould paſs by way of bill, the date whereof is the date of the ſummons.)* *Ex deliberatione Dominorum Concilii.*

I never ſaw but two or three, at moſt, of theſe ſummonſes; one of them was a ſummons of reduction and declarator, and the other a ſummons much of the nature of the foregoing ſummons; but never had the occaſion, ſince I was writer to the ſignet, to ſubſcribe any of them myſelf.

SUMMONS *of Relief at the Inſtance of an Heir, againſt the Executor.*

GEORGE, *&c.* Whereas it is humbly meant and ſhown to Us by A. D. eldeſt lawful ſon and heir, ſerved and retoured to the deceaſed G. D. of —— That where, albeit by the laws of this realm, the heir as well as the executor are obliged to the creditor of the defunct for payment of the juſt and

and lawful debts of the defunct; yet, notwithstanding thereof, the executors are also obliged to relieve the heir of the debt, in so far as the executry and moveable estate may amount to, *et secundum vires inventarii*: *And true it is*, That the pursuer, as heir foresaid, is pursued and distressed at the instance of the persons after named, lawful creditors to the said defunct, for payment of the particular debts and sums of money after specified, addebted and resting owing to them by the said defunct, by bond, tickets, accompts, and otherways, in manner after mentioned, each one of them for their own parts, as is after divided, *viz. (here leave blank for a half sheet, to libel the debts resting, and then say)* likeas the said defunct had pertaining to him the time of his decease (which was upon the —— day of ——— years), the goods, gear, debts, sums of money, mails, farms, profits and duties of lands, utensils, domicils, gold, silver, and others underwritten, (attour the moveable heirship), addebted and resting owing to him by the persons after named, and in his possession, and of the avails, quantities, estimations, and prices after rehearsed, in manner after expressed, *viz. (leave blank for inserting and libelling all, and then say)* and which goods, gear, debts, sums of money, and others above specified, are either given up, or should have been given up, in inventory, and confirmed accordingly by A. F. of ——— executor nominate by the said defunct in his latter-will and testament, it being now year and day, and upwards, since the said G. D. deceased (being at the time above mentioned); and in which time and space, by the laws and practique of this realm, the said testament should have been not only confirmed, but execute, and the subject-matter made effectual for payment of debts in the first place, and the superplus made forthcoming to those having right thereto in the next place, and yet neglected by the said executor nominate, who, by the laws and constitutions of this kingdom, ought to have done otherwise, and thereby liable *in solidum*, and for omissions as well as commissions, had he meddled as well as confirmed. *And albeit it be of verity*, That the said pursuer, as heir foresaid, has oft and divers times desired and required the said A. F. executor foresaid (and as he who, *virtute officii*, and by the said laws and constitutions of this kingdom, either did or ought to have used exact diligence, in manner and to the effect foresaid), to warrant and relieve him of the said debts (6) resting by the defunct's father as said is, and to purchase and procure from the said creditors the said bonds, tickets, and accompts unregistered, or sufficient acquittances and discharges thereof, in favours of him, his heirs and executors, and all others the representatives of his said deceased father, bearing absolute warrandice, and all other clauses needful, and to deliver the said discharges, or registered extracts thereof, to the pursuer, for his own and his foresaids their full, free, and absolute exoneration of the same, in time coming: *Nevertheless*, he wrongously refuses, postpones, and defers to do the same, without he be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn, and charge the said A. F. personally, or at his dwelling place, on twenty-one days warning, to compear before Our Lords of council and session, *&c.* to answer at the instance of the said pursuer in the said matter; *That is to say*, The said defender to hear and see the premisses suffi-

ciently verified and proven to be of verity; and the ſame being ſo verified and proven, to hear and ſee himſelf decerned and ordained, by decreet of the ſaid Lords, to warrant and relieve the ſaid purſuer, as heir foreſaid, of the ſaid debts (*here conclude according to the ſubſumption, from the figure* (6), *till ye come to* nevertheleſs, *and then ſay*) conform to the laudable laws, conſtitutions, and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaid defender, if he fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid; and if the ſaid defender fail, and compear not, day and place foreſaid, (*here follow furth the ſecond diet, and conclude with*) According to juſtice, as ye will anſwer, *&c.*

Nota, There be ſeveral debates that ariſe in this caſe as to the defender againſt the purſuer: As, 1. He has execute the teſtament ſo far as was poſſible, and many of the debts and debitors proved inſolvent. 2. He will contend, the debts for which the purſuer is diſtreſſed are heritable, and ſo, as heir, ſhould pay them. 3. Expence of confirmation, and execution of the teſtament, muſt be deduced. 4. The defender has paid many debts and legacies, mournings, ſervant-fees, *&c.* upon ſentence and diſcharge. 5. He cannot, *pro reliquo*, be obliged further than to aſſign his diligence. 6. And, which is worſt of all, the purſuer, by his diſpoſition from the father, of the eſtate, or other writ, is obliged to pay all the debts; and the benefit of the executry he legated to the younger children, and beſides legally exonered, comes in play. But I leave theſe things to lawyers.

SUMMONS *of general and ſpecial Declarators, at the Inſtance of the King's Donatar, and the King's Advocate, of Ward, Nonentry, Relief, and Marriage of divers Perſons.*

GEORGE, *&c.* To Our lovits, *&c.* Our ſheriffs, *&c.* Whereas it is humbly meant and ſhown to us by A. G. of —— donatar after ſpecified, and Our right truſty counſellor —— Our advocate, for Our intereſt, in the matter under written, That where We, with advice and conſent of (*here take in the tenor of the gift in the third perſon, till ye come to the words* with full power, *and then ſay*) as the ſaid letter of gift, of the date foreſaid, in itſelf more fully proports; by virtue whereof, We, and conſequently Our ſaid donatar, have ſufficient, good, and undoubted right and intereſt in and to the ſaid ward and nonentry duties and caſualties above-mentioned, with the ſaid reliefs and marriages, and haill benefit and caſualties of the ſame, and to call and purſue therefor in manner under written: *And true it is*, that the lands, and others after ſpecified, *viz.* —— wherein the ſaid deceaſed P. D. of S. died laſt veſt and ſeiſed, have been in nonentry by his deceaſe (and who deceaſed upon the —— day of —— years), and continues ſo, by and through P. D. now of S. his eldeſt lawful ſon his not entering and infefting himſelf as heir to him therein, and therethrough the ſaid purſuer, as donatar foreſaid, has right to the retoured duties thereof, not only

theſe

theſe bygone years, ſince his ſaid father's deceaſe, now by the ſpace of ——, extending the ſaid retoured duties yearly to ——, and in haill to ——, but alſo to the *ipſa corpora* of the mails, duties, and caſualties of the ſaid lands and others foreſaid, of this inſtant crop —— years, and yearly and termly thereafter, in all time coming, ay and while the lawful entry of the ſaid P. D. now of S. and, failing of him by deceaſe unentered, of the next lawful heir or heireſs of the ſaid P. D. of S. thereto, and which mails, duties, and caſualties, are yearly of the avails, quantities, eſtimations, and prices after mentioned, *viz.* ------ likeas, the lands and others after ſpecified, *viz.* —— wherein the ſaid deceaſed M. C. G. was infeft, were in nonentry from the time of his deceaſe, and who deceaſed upon the -------- day of -------- years, until the deceaſed M. R. G. his entry thereto, and being infeft as heir to him, which was upon the ------ day of --------- years, and ſo by the ſpace of --------, wherethrough, the retoured duty in that time being ------ yearly, and extending in haill to ------, became due, as alſo the ſame were in nonentry from the deceaſe of the ſaid M. R. which was upon the ------ day of ------ years, until R. G. his eldeſt ſon his deceaſe, which was upon the ------ day of ------ years, and who lived and died unentered heir to the ſaid M. R. his father, and therethrough the retoured duties of the ſaid lands being ------ yearly, and ſo, during that ſpace, extending to ------ became due; and in like manner the ſaid lands and others foreſaid, by the deceaſe of the ſaid R. G. who deceaſed upon the ------ day of -------- years, and minority of --- G. his eldeſt lawful ſon, fell and became in Our hands, by reaſon of ward, and therethrough the whole mails, farms, kains, cuſtoms, caſualties, profits and duties thereof yearly ſinceſyne, and in all time coming, ay and while the lawful entry of the ſaid --- G. and, failing of him by deceaſe, of the next heir or heireſs of the ſaid M. R. thereto, extending the ſaid mails, duties, and caſualties yearly, and each year, to the avails, quantities, eſtimations, and prices underwritten, *viz.* ------ together with the relief when the ſame ſhall happen, extending to ------, and the ſingle avail of the ſaid R. G. his marriage and who married after his father's deceaſe, being a perſon of ------ chalders victual, and ------ money rent a year, extending to the ſum of ------, and which ſingle avail the ſaid R. G. either got or might have got in tocher, and the double avail thereof extends to --------, and the ſingle avail of the ſaid --- G. his marriage extends to --------, and which he may have in tocher, being a perſon of the quality and eſtate above-mentioned; and to which reſpective avails, the ſaid wards, nonentries, relief, and marriages, ought to be liquidated by Our Lords of council and ſeſſion, in manner under written; and therefore, it ought and ſhould be found and declared, by decreet of Our ſaid Lords, that the lands and others above ſpecified hold ward of Us, and that the ſame have fallen and become in Our hands, by reaſon of nonentry, by and through the deceaſe of the ſaid P. D. M. C. M. R. and R. G. in manner, at the time, and during the ſpace above-mentioned, and that thereby the ſaid nonentry duties are become due; as alſo, that, by the deceaſe of the ſaid R. G. and minority of the ſaid ------ his ſon, the ſaid lands and others foreſaid are fallen and become in Our hands, by reaſon of ward ſince the time above-mentioned, and continue ſo as ſaid is, and

that,

that by the ſaid R. G. his marrying after the death of his father, the ſingle and likewiſe the double avails of his marriage are become due, and that by the ſaid --- G. ſon to the ſaid R. G. his not being married, being ------ years of age, the ſingle avail of his marriage is become due, and all the ſaid non-entries, ward, and marriages, and ſingle and double avails thereof, with the ſaid reliefs, ought and ſhould be liquidated by the ſaid Lords their decreet, to the particular ſums above-mentioned, and it found and declared, that the ſaid A. G. purſuer, as donatar foreſaid, has ſufficient and undoubted right and intereſt thereto, and likewiſe to the haill benefit and caſualties of the ſame in time coming, during the continuance of the ſaid ward and non-entry *reſpectivè*, with the relief, in manner above expreſſed; and the ſame being ſo found and declared, the ſaid P. D. now of S. and the ſaid —— G. as heir ſerved and retoured to, or otherwiſe repreſenting his ſaid deceaſed father and grandfather, *reſpectivè*, either immediately or by progreſs, and the ſaid —— G. his tutors and curators, if he any has, for their intereſt, and —— tenants and poſſeſſors of the lands and others foreſaid, ought and ſhould be decerned, by decreet of the ſaid Lords, to make payment to the ſaid purſuer, as donatar foreſaid, of the ſaid non-entry duties, as well retoured as the *ipſa corpora* bygone and in time coming: And in like manner, the ſaid —— G. as heir foreſaid, or otherwiſe repreſenting his ſaid deceaſed father and grandfather, in manner above ſpecified, and his ſaid tutors and curators for their intereſt, and the ſaid tenants and poſſeſſors, ought and ſhould be decerned to make payment to the ſaid purſuer of the ſaid ward-mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others above mentioned, fallen ward as ſaid is, yearly, ſince the deceaſe of the ſaid R. G. which was at the time above mentioned, extending yearly, and each year, to the avails, quantities, eſtimations and prices above expreſſed; and ſicklike, to make payment to him of the like mails, duties and caſualties yearly in time coming, during the continuance of the ſaid ward, and thereafter, whilſt the non-entry ſubſequent to the ward endures, and until his lawful entry to the ſame; and the ſaid —— G. and his ſaid tutors and curators, ought and ſhould be decerned to make payment to him of the ſaid relief, extending as ſaid is; and the ſaid —— G. as repreſenting his ſaid father, and his ſaid tutors and curators, ought and ſhould be decerned to make payment to him, as donatar foreſaid, of the ſingle and double avails of the ſaid deceaſed R. G. his marriage, and of the ſingle of his own marriage, extending in manner above rehearſed, and the ſaid ward and non-entry duties, relief, and marriages, liquidated accordingly, after the form and tenor of the ſaid letter of gift, laws and practique of this kingdom, heretofore inviolably obſerved in the like caſes, in all points; and which all of them refuſe, poſtpone and defer to do, albeit oft and divers times deſired and required thereto, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid P. D. now of S. and the ſaid ----- G. for himſelf, *et nominibus paſſivis quibus ſupra*, and the ſaid ----- tenants and poſſeſſors of the ſaid lands and others above ſpecified, holden ward, as ſaid is, perſonally, or at their dwelling-places, on twenty-one days warning,

warning, and the ſaid ----- G. his tutors and curators, if he any has, for their intereſt, and all others having or pretending to have intereſt in the ſaid matter, by open proclamation, at the market-croſs of ----- and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid A. G. purſuer, as donatar foreſaid, and alſo at the inſtance of the ſaid ----- Our advocate, for Our intereſt, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords of Our council and ſeſſion, that the ſaid lands and others above ſpecified hold ward of Us, (*here to conclude in the terms of the above written ſubſumption; but more curtly, making a reference as to the years, quantities and prices to what is above ſaid*) or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, liquidate, decern and declare, in manner above rehearſed, (*to inſert a ſecond diet, becauſe this ſummons contains a ſpecial declarator, and then ſay,*) According to juſtice, to be called upon the reſpective diets, and tabulate the ſaid general declarator in our table, and called by the order and privilege thereof, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, There were ſome perſons creditors to a gentleman, and, for their debts and ſecurity thereof, appriſed and adjudged his lands, which held ward of the king, and were thereupon infeft by charter under the great ſeal; and the appriſer and adjudger (being different perſons) deceaſing, and both of them married, and likewiſe their heirs being married, and paſt twenty-one years, the lands fell in non-entry, and no other caſualty thereby fell due but that of non-entry; and thereafter it fell out, that the heir of the adjudger, after he was infeft and married, deceaſed, and his ſon major, but unmarried; ſo that thereby nothing fell due, but the non-entry mails, and the ſon's marriage: And thereafter, the ſon, albeit after his father's deceaſe, married, was not infeſt, and and left a ſon minor, ſo that the lands fell and became in the king's hands, by reaſon of ward and non-entry, and thereby the ward and non-entry duties, with the relief as well as the marriage, became due, and the gift of all the reſpective caſualties were gifted to this purſuer, who thereupon, with concourſe of his Majeſty's advocate, intents the declarator aforeſaid; and which gift ye will find amongſt that part of the whole work only paſſing the privy ſeal, wherein his Majeſty, upon the ſpecial conſiderations therein mentioned, and particularly, that the appriſer and adjudger were but creditors, and expede their infeftments for ſecurity of their debts, and, unwilling that the leaſt advantage ſhould be taken of his good ſubjects on that head, accordingly the gift was paſſed upon a reaſonable compoſition: And becauſe declarators of this nature, wherein the king's advocate concurs, ſhould have a bill, I have ſet it down here.

BILL

BILL *of general and ſpecial Declarator of Ward, Non-entry, Relief, and Marriage, at the inſtance of the Donatar and his Majeſty's Advocate.*

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth, A. G. of D. donatar after ſpecified, and S. G. M. his Majeſty's advocate, for his intereſt, in the matter under-written, That where his Majeſty, with advice and conſent of the Lords commiſſioners of his Highneſs's treaſury and exchequer, by his letter of gift under the privy ſeal, of the date the —— day of —— laſt by-paſt, gave, granted, and diſponed to me the ſaid A. G. my heirs and aſſignees whatſomever, (*here deduce the tenor of the gift, until ye come to theſe words*, with full power, *and then ſay*) as the ſaid letter of gift, of the date foreſaid, in itſelf more fully proports; by virtue whereof, I the ſaid A. G. as donatar foreſaid, have ſufficient, good, and undoubted right and intereſt in and to the ſaid reſpective wards and non-entry mails, *&c.* of the reſpective lands and others above mentioned, pertaining and belonging to the forenamed perſons, holding ward of his Majeſty in manner foreſaid, yearly, ſince the times of their falling in his Highneſs's hands, by reaſon of ward and non-entry *reſpectivè*, in manner above expreſſed, *&c.* and yearly and termly in time coming, during the continuance of the ſaid lands, either in ward or non-entry *reſpectivè*, together with the marriage of the ſaid deceaſed ——, both ſingle and double avails, in reſpect of his being married after the ſaid deceaſed —— his deceaſe, as alſo the marriage as to the ſingle avail of the ſaid —— already fallen, being —— years of age, and double avail thereof when the ſame falls due; and I ought and ſhould be anſwered, obeyed, and paid thereof, by the ſaid reſpective perſons, for themſelves; and as repreſenting their ſaid fathers and grandfathers *reſpectivè*, upon one or other of the paſſive titles, either immediately or by progreſs, and ought and ſhould be ſo declared by your Lordſhips; and being ſo declared, the ſaid reſpective perſons, according to their reſpective intereſts in the ſaid matter, and the tutors and curators, *&c.* and —— tenants and poſſeſſors of the lands and others after ſpecified, *viz.* —— lying within the ſheriffdom of ——, and holden ward as ſaid is, ought and ſhould be decerned by your Lordſhips decreet, to make payment to me, as donatar foreſaid, of the ward and non-entry mails, farms, *&c.* after mentioned, whether the retoured duty, or *ipſa corpora* yearly, the crops and years of God under written, of the avails, quantities, eſtimations, and prices after expreſſed, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz.* -------- and of the like mails, farms, *&c.* yearly in time coming, during the ſaid ward and non-entry, and ay and while the lawful entry of the righteous heirs thereto; as alſo, the ſaid ---- G. apparent heir foreſaid, ought and ſhould be decerned, by your Lordſhips decreet, to make payment to me the ſaid A. G. as donatar foreſaid, of the ſaid relief after ſpecified, *viz.* --------, and the ſaid -------- ought and ſhould be decerned, by decreet foreſaid, to make payment to me, as donatar foreſaid,

foresaid, of the single avail of his said deceased father's marriage, extending to ------- Scots money, which his said deceased father either got, or might have got in tocher, being a gentleman of birth and quality, having an estate consisting of ------- chalders victual-rent, and of ------- money rent yearly; and likewise to make payment to me of the double avail of his said father's marriage, extending to ------- money foresaid; and, in like manner, to make payment to me, as donatar foresaid, of the sum of ------ money above written, for the single avail of his own marriage, being now past ---- years of age, and consisting of the fortune and estate above mentioned, and of the birth and quality aforesaid, and to which respective sums, the said ward, non-entry, relief, and marriage, ought to be liquidated by your Lordships decreet, conform to the said letter of gift, laudable laws and practique of this kingdom, heretofore inviolably observed in the like cases, in all points; and which, the forenamed persons, and the said -------, and his tutors and curators, for their interest, wrongously refuse, *&c.* to do, albeit oft and divers times desired and required thereto, without they be compelled. *Herefore*, I the said A. G. as donatar foresaid (with concourse of his Majesty's advocate) beseech your Lordships, that we may have summons of general and special declarators in the premisses, against the said -------, and the tenants and possessors of the said lands, and others foresaid, holden ward as said is, and the tutors and curators, *&c.* and all others having, or pretending to have interest, *&c.* (*as we please libel, upon two diets, the one of twenty-one days, and the other of six days*, &c.) to be tabulate the said general declarator in his Majesty's table, and called by the order and privilege thereof, conform to your Lordships daily practique and order, used and observed in the like cases, and your deliverance to be granted thereanent, and your Lordships answer.

Nota, This bill, as it is subscribed by the writer, so must be subscribed by the king's advocate, and then passes in course; and the date of the bill, is the date of the summons, as in all other cases where summonses have bills.

Some creditors are tender and loath to take infeftment in lands holding ward, because of the sad consequences; others do it not, knowing how the lands hold; others, as they do it *cum periculo*, so (as a safeguard against the ward) they put their wives in liferent of the money, and appryse in the wife's name as well as their own; or, if the wife be in neither bond nor appryzing, the husband assigns and disponeth the same to the wife in liferent, and passes infeftment in both their names, which, if the wife survive the husband, saves the casualty of the ward, as to the fruits and rent of the lands during her lifetime, even albeit the heir of the marriage be minor; for, in that case, there is neither ward, non-entry, or relief due, the lands being in the hands of the wife, by reason of conjunct fee, not in the superior's hands, by reason of ward or non-entry; but the marriage will fall due, notwithstanding, if the son was not married in the father's lifetime, as some foreseeing men do.

Other persons that appryse, and thereupon infeft, finding thereafter some of the lands to hold ward, they immediately possess, and by intromission extinguish their appryzing, (if not *aliunde* paid and redeemed), and immediately renounce their right and possession, and all to liberate themselves of the event of the ward.

SUMMONS *of Declarator, at the Inſtance of ſeveral Perſons who have Intereſts within a Burgh and Territory thereof, partly holden of the King Burgage, and partly of the Burgh Feu, againſt the preſent Magiſtrates and Stent-Maſters thereof, for Rectification and Redreſs of ſeveral Impoſitions, not impoſed by public Authority, and of the Extent thereof, and Manner of Stenting, and Inequality thereof.*

GEORGE, *&c.* To —— Our lovits, *&c.* Our ſheriffs in that part, *&c.* and meſſengers *reſpectivè*, *&c.* Whereas it is humbly meant and ſhown to Us by J. F. of ——, R. S. merchant burgeſs of ——, *&c.* That where the ſaid purſuers ſtand heritably infeft and ſeiſed in the mills of —— mill-lands, multures, and ſequels thereof, lying within the pariſh of ——, and ſheriffdom thereof, holden feu of the provoſt, baillies, council, and community of the ſaid burgh of ——, for payment of the ſum of —— Scots money yearly, at two terms in the year, Whitſunday and Martinmas, by equal portions, and doubling the ſaid feu-duty the firſt year of the entry of their heirs thereto, as uſe is of feu-farm, and that for all other burden, exaction, queſtion, demand, or ſecular ſervice, that can be any ways aſked or required by any perſon or perſons forth thereof, as the charter granted to the purſuers thereupon, and the inſtrument of ſaſine following on the ſame, in themſelves more fully proport; likeas, the ſaid purſuers ſtand infeft in ſeveral roods, acers, fiſhings, and others lying within the ſaid burgh of ——, and territory thereof, holden of Us and Our royal ſucceſſors, in free burgage, for ſervice of burgh uſed and wont, as the inſtrument of ſaſine granted to them thereupon, in themſelves alſo more fully is contained: And however by the municipal laws, acts of parliament, and conſtitutions of this Our ancient kingdom, Our lieges and good ſubjects are no further liable to public burdens, ſuch as ceſs, taxations, and the like, than is impoſed by public authority, and repreſentatives of the nation in plain parliament, or convention of the eſtates of the kingdom, and as Our affairs, tending to Our honour and their own preſervation, may require; and as to ſuch of Our lieges as live within boroughs royal, or having intereſt therein, in point of ſcoting, loting, watching, and warding, cannot be impoſed upon, (as to burdens by the magiſtrates and council for the time, who have the charge and government of the place,) further than in the equal diviſion of what ſo impoſed by public authority, parliament and convention, according to perſons, their reſpective intereſts, trade, and concernments within the burgh, and territory thereof, (eſpecially as to lands or mills holden feu of the town, for payment of a certain feu-duty, *pro omni alio onere*,) but no ways at their own hand, to create and impoſe other burdens, ſtents, and taxes, *ad libitum*, and for private ends and deſigns, as proſecuting or defending of pleas, upon the account of moſs, meiths, and marches, and the like, which, if neceſſary, ſhould be always defrayed by the common-good of the place, whereof the magiſtrates of the ſaid burgh of —— never gave any account to the community and neighbours, but is patched up from one election to another, and an exoneration

exoneration granted, without conſideration had, or reaſon given of the cauſe, how expended, and whether onerouſly, and for the utility and profit of the burgh or not; and in effect, what is impoſed by public authority, the ſtent-maſters appointed for diviſion thereof amongſt the neighbours, do the ſame ſo unequally, that without reſpect to each man's true intereſt and trade, (to which there ſhould always be an eye and proſpect, ſome having land without trade, and others both land and trade, and ſome greater and leſſer,) that they overburden ſome, and favour others that are their relations or allies, and thereby, and in the exaction conform, commit great iniquity, and violate the wholeſome laws of the kingdom, and true and pure deſign of government in cities; and beſides, the magiſtrates uſe ſuch ſummar execution for payment of theſe ſtents and taxations, by quartering, poinding, and otherwiſe, that the payment is made effectual, before the perſons grieved can make application for ſuſpenſions, or other legal remedies, whereby they ſuffer in great, and in ſo much, that albeit theſe —— years bygone, there were no more ceſs or other taxation impoſed by public authority, and repreſentatives of the kingdom aſſembled in parliament, or convention of the eſtates, but —— months ceſs and taxations; yet the magiſtrates of the ſaid burgh, at their own hands, and for private ends, as ſaid is, have impoſed and exacted the double, if not the triple, as is evident, and will appear by the diſcharges and receipts granted by their collectors for the ſame, (a moſt unſupportable burden, and ſuch as they are not able to undergo for the future, without their abſolute ruin, as to thoſe parts of their eſtates lying within the ſaid burgh, and territory thereof;) and therefore, (and for preventing the like inconveniencies for the future,) it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid magiſtrates and ſtent-maſters have done wrong in ſo doing, and that the purſuers, and their ſucceſſors in the right of the ſaid mills, mill-lands, multures, and ſequels thereof, are no further liable in public burdens, or other ceſs and taxations, than a proportional part effeiring to their valuations, of what is impoſed by Us and Our royal ſucceſſors, with the advice and conſent of Our eſtates of parliament, (6) conform to the tenor of their ſaid rights and infeftments, bearing the ſaid feu-duty to be annually *pro omni alio onere*, in manner foreſaid; and as to their lands, roods, acres, fiſhings, and others within the ſaid burgh, and territory thereof, it ought and ſhould be found and declared, by decreet foreſaid, that they and their foreſaids are not liable in ceſs, taxations, and other public burdens, further than what is impoſed by public authority, as ſaid is, and that effeiring to their intereſt, and equally and proportionally with the other neighbours within the ſame, and with a due regard to theſe that have only land or fiſhing, but not trade, and thoſe who have both, and ſo in equity ſhould bear and pay but a ſuitable proportion; and that it ſhall not be lawful to, or in the power of the ſaid magiſtrates, or their ſucceſſors in place and office, (under whatſoever colour or pretext,) in any time coming, to impoſe upon, or exact from the ſaid purſuers, or their ſucceſſors, any other burdens, ſtents, or impoſitions, except what impoſed by public authority, in manner foreſaid, at leaſt, if any other burden be neceſſary, and ſuch as by law within burgh may be impoſed

and exacted, it ought and ſhould be found and declared, that ſome competent time before any ſuch impoſition be laid on be allowed, and that the true cauſe, reaſon, and grounds thereof, (as well as the ſum or quantity) be made known by public placards affixed on the tolbooth, ports of the town, and other public places thereof, and that the public records as to their common-good, and how exhauſted, be alſo expoſed, and the purſuers and their ſucceſſors, and other good citizens certiorate as to all, and that they be heard before the ſaid magiſtrates upon the whole matter, and whether the intended burdens be neceſſary or not, and the ſaid common-good profitably exhauſted or not, and may give in their juſt and lawful objections againſt the ſame: And even in caſe the intended burdens ſhould be found neceſſary, and the common-good truly and profitably exhauſted, and ſo a neceſſity of its being impoſed, it ought alſo to be found and declared by the ſaid Lords their decreet, that after impoſing, the purſuers and their foreſaids, and other citizens, have a liſt of the names of the ſtent-maſters left open to them upon the council-table of the burgh, for ſome days, that, after inſpection thereof, they may, if ground for it, give in their objections againſt all or either of them; and when the liſt is adjuſted, and the ſtent accordingly ſet down by them, as to each man's proportional exaction thereof, or compulſitors for the ſame, by quartering, poinding, or otherwiſe, ought and ſhould be diſcharged for a competent time thereafter, and in the mean time, the liſt of all the proportions to remain open and patent in the town-clerk's hands, that thoſe concerned may have inſpection thereof, and thereby know whether they be leſed or not, and, if leſed, may make application to the magiſtrates for redreſs; and, ſhould the ſame be denied, may make application to the ſaid Lords, or other judges competent, for remeid of law; and the ſaid rules and method ordained to ſtand, and be inviolably obſerved within the ſaid burgh of —— by the preſent and future magiſtrates thereof in all time coming, conform to the act of parliament, laws, ſtatutes, and conſtitutions of this Our ancient kingdom, in all points, (7) as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge A. C. provoſt, and —— baillies of the ſaid burgh of —— for themſelves, and as repreſenting the council, and the whole body and community, and —— late ſtent-maſters within the ſame, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have intereſt, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuers, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders (and for preventing the like inconveniencies for the future) to hear and ſee it found and declared, by decreet of the ſaid Lords, that the ſaid magiſtrates and ſtent-maſters have done wrong, in doing as aforeſaid, and that the purſuers and their ſucceſſors, in the right of the ſaid mills, mill-lands, multures, and ſequels thereof, are no further liable in public burdens, or other ceſs or taxations, than a proportional part effeiring to their valuations, of what is impoſed by Us and Our royal ſucceſſors, with the advice and conſent of Our eſtates of parliament, (*here take in from the figure* (6) *in the ſubſumption*,

ſubſumption, until ye come to the (7) *figure before the will, only with this alteration, for* ought and ſhould, *write*, to hear and ſee) or elſe to alledge a reaſonable cauſe why the ſame ſhall not be done; with certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern, and declare in manner foreſaid. (*It is fit to inſert a ſecond diet, and then ſay,*) According to juſtice, *&c.*

This ſummons needs no bill.

Nota, As this is an extraordinary ſummons, ſo it continued in debate for ſeveral ſeſſions, and *in fine* was diſcuſſed, and decided *in terminis*.

Nota, The trades of Kirkcaldy purſued the magiſtrates thereof upon this head, that the magiſtracy was perpetuate in the perſons of a few, who, linked together by conſanguinity and affinity, made up the council yearly, and thereby enhanced the whole power of the town's affairs, and particularly ſtenting, without any communication thereof, in leſs or more, to the trades, who had a great part of the property of the town, beſides the effects of their callings and endeavours; by which the town became not only the more populous, but more enriched than by merchants, who, when turned rich, acquired eſtates in the country; whereas the trades and their children continued always therein, and ſo, in law and juſtice, ſhould have a ſhare in the government of the town, and thereby witneſs the adminiſtration thereof, as was and is practiſed in the moſt, (if not all) the well-governed cities in the kingdom; and therefore, craved a regulation and rectification for the future, and that their deacons might be declared capable to be of the council, and ordained to be annually elected, as indiſpenſible members thereof, for the future.

This caſe was decided favourably and juſtly, and will be found amongſt my Lord Stair's deciſions, having written moſt exactly all things memorable ſince King Charles's happy reſtoration, (amongſt the reſt of his public works expoſed to the preſs, *cum privilegio*) for the good of the preſent and future ages.

SUMMONS *of Declarator of the Nullity of a Back-tack, contained in a Contract of Wadſet, for Not-payment of the Back-tack Duty.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Whereas it is humbly meant and ſhown to Us by G. D. of —— That where, by contract of wadſet, made and paſſed betwixt the ſaid purſuer and H. M. of —— on the one and other parts, of the date the —— day of —— years, the ſaid H. M. for the cauſes therein ſpecified, ſold, annalzied, wadſet and diſponed to the ſaid purſuer, his heirs and aſſignees whatſoever, heritably, all and haill the town and lands of —— lying within the pariſh of —— and ſheriffdom of —— and bound and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe the ſaid purſuer and his foreſaids therein, to be holden with abſolute warrandice, and under reverſion, in manner ſpecified in the ſaid contract; whereby the ſaid purſuer alſo ſet back, and in tack and aſſedation let to the ſaid H. M. and his heirs and aſſignees, the foreſaid lands and others above wadſet, with the pertinents, during the ſaid not-redemption, for yearly payment to the ſaid purſuer

ſuer and his foreſaids, of the ſum of ----- at two terms in the year, Whitſunday and Martinmas, by equal portions, in name of back-tack duty, beginning the firſt term's payment thereof at the term of —— then next to come, for the term immediately preceding, and ſo forth yearly thereafter at the ſaid terms, and by equal portions, as ſaid is, during the ſaid not-redemption; likeas, by the foreſaid back-tack, it is expreſly provided and declared, that in caſe two terms run in the third, (the ſaid back-tack duty not paid,) that then, and in that caſe, the ſaid back-tack ſhould from thenceforth become void and null in itſelf, by way of exception or reply, without any neceſſity of declarator of nullity to follow thereupon, ſicklike as if the ſame had never been made or granted; and that it ſhall be lawful to the ſaid purſuer and his foreſaids, notwithſtanding thereof, to enter to the real, actual, and peaceable poſſeſſion of the ſaid lands and others foreſaid, ſetting, raiſing, uſing and diſpoſing thereof at their pleaſure, and that *brevi manu* at their own hand; but any neceſſity of decreet or ſentence of removing to precede, or any hazard of intruſion or peril of ejection to be incurred by them therethrough, and which, by the foreſaid contract, are, (*per verba de preſenti*,) renounced and diſcharged in their favours for ever, as the ſaid contract, of the date foreſaid, in itſelf more fully is expreſſed: *And true it is*, That the ſaid H. M. defender, has not only ſuffered two terms to run in the third, but alſo —— terms to run in —— terms, in ſo far as the ſaid back-tack duty is really reſting from the term of —— 17— years, to the term of —— 17— years, (now by the ſpace of —— years,) wherethrough the ſaid irritancy is incurred, and the ſaid back-tack is become extinct, void and null, in manner under written; and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, (6) that the foreſaid back-tack duty is really reſting by the ſpace above ſpecified, and that thereby the ſaid defender has not only ſuffered two terms to run in the third, but alſo many more terms to run together, quite contrary, and merely repugnant to the ſaid back-tack, and clauſe irritant therein contained, which, by ſo doing, is contravened and incurred; and the ſame being ſo found and declared, it ought and ſhould be alſo found and declared, by decreet foreſaid, that the foreſaid back-tack is now and in all time coming extinct, void and null in itſelf, ſicklike, as if the ſame had never been made or granted; and that, notwithſtanding thereof, it ſhall be lawful to the ſaid purſuer and his foreſaids, inſtantly to enter to the real, actual, and peaceable poſſeſſion of the ſaid lands and others above wadſet, with the pertinents, and to the occupying, labouring, manuring, ſetting, raiſing, uſing and diſponing thereupon at their pleaſure, in time coming, during the ſaid not-redemption, and that *brevi manu* at their own hand, but any neceſſity of decreet or ſentence of removing to precede, and but hazard of intruſion or peril of ejection to be incurred by them therethrough, conform to the ſaid contract, clauſe irritant therein contained, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily, ſummon, warn and charge the ſaid H. M. defender, perſonally, or at his dwelling-place, on twenty-one days warning, and all others,

&c.

&c. to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, (*to conclude*, ut ſupra, *from this* (6) *figure, till*, as is alledged; *only, for the words*, it ought and ſhould, *in the ſubſumption, in the concluſion ſay*, to hear and ſee, *and then ſay*,) or elſe to alledge, *&c*: With certification to them if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare, in manner foreſaid: According to juſtice, as ye will anſwer, *&c.*

No bill.—And needs no continuation, being *inſtanter* verified by the contract, which bears the obligement of payment, and condition of the back tack and irritancy; and that it is incurred, is clear, without the defender produce diſcharges of the back-tack duty, which ſeems improbable, or the purſuer has intented his action in vain, and may be liable for the defender's expence, at the modification of the Lords.

SUMMONS *of Declarator upon the Not-redemption of Lands, at an expreſs Term prefixed, and that therethrough the Reverſion is extinct, and the Lands become irredeemable.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Whereas it is humbly meant and ſhown to Us by G. D. of ——, That where, by contract of wadſet, made and paſſed betwixt H. M. of —— and the ſaid purſuer, on the one and other parts, of the date the —— day of —— 17— years; the ſaid H. M. for the onerous cauſes therein ſpecified, ſold, annalzied wadſet and diſponed to the ſaid purſuer, his heirs and aſſignees whatſoever, heritably, all and haill the town and lands of —— lying, *&c.* and bound and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe the ſaid purſuer and his foreſaids therein, to be holden, and with abſolute warrandice, in manner ſpecified in the ſaid contract, whereby it is expreſly provided and declared, that the foreſaid lands and others above wadſet, with the pertinents, be redeemable by the ſaid H. M. his heirs and aſſignees, from the ſaid purſuer and his foreſaids, at any term of Whitſunday even thereafter, (betwixt the ſun-riſing and down-paſſing thereof,) by payment making to them of the ſum of —— Scots money, in real and ſufficient gold and money, (having paſſage and courſe of payment for the time) within St. Giles's kirk in Edinburgh, (at that place whereof where umquhil James Earl of Moray his tomb is ſituate,) upon the premonition of forty days of before, to have been made by them to the ſaid purſuer and his foreſaids for that effect, perſonally, or at their dwelling-places, in preſence of a notary and witneſſes as effeirs; and, in caſe of abſence or refuſal to the receipt of the ſaid ſum, the ſame to be conſigned in the hands of —— to be forthcoming to the ſaid purſuer and his foreſaids, upon the peril of the conſigner; and the ſaid ſum being ſo paid or conſigned, as ſaid is, the ſaid lands to be holden as lawfully redeemed in all time thereafter: And, on the other part, in caſe it ſhould happen

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the ſaid H. M. and his foreſaids to fail in redemption of the ſame, at the ſaid term, at leaſt, at the term of Whitſunday even 17--- years, by payment or conſignation of the ſaid ſums, in caſe of refuſal, in manner above expreſſed; then, and in that caſe, it is expreſly declared, agreed to, and condeſcended upon by the foreſaid contract, and *per expreſſum* comprehended in the ſaid reverſion, that the ſame reverſion, and all power and liberty of redemption, by virtue thereof, ſhould from thenceforth be extinct, void and null, ſicklike, in the ſame manner, and as freely in all reſpects, as if the ſaid reverſion had never been made, granted or ſubſcribed, but that the ſaid lands had, *ab initio*, been irredeemably diſponed; and that it ſhall be lawful to the ſaid purſuer and his foreſaids, to diſpone thereupon, as their own proper heritage, heritably and irredeemably thereafter in all time coming, as the ſaid contract, of the date foreſaid, in itſelf more fully is contained: *And true it is*, That the ſaid H. M. has failed in the lawful redemption of the ſaid lands, by payment or conſignation of the ſaid ſums, at the ſaid term of Whitſunday even —— years, as alſo at the ſaid term of Whitſunday even —— years, (being the laſt term prefixed for that effect,) wherethrough the ſaid defender has incurred the ſaid clauſe irritant, contained in the ſaid reverſion, and the ſame reverſion thereby become extinct, void and null, and the ſaid lands become heritably and irredeemably the purſuer's and his foreſaids, in manner under written, and to be uſed and diſpoſed upon by him and his foreſaids, as their own proper heritage, in all time coming, in manner after expreſſed; and for that effect, it ought and ſhould be found and declared, (6) by decreet of Our Lords of council and ſeſſion, that the ſaid H. M. has failed in the lawful redemption of the ſaid lands and others above wadſet, with the pertinents, by payment or conſignation of the ſaid ſum, at either of the ſaid two terms, appointed and prefixed for that effect, and that therethrough he has incurred the foreſaid clauſe irritant, contained in the ſaid reverſion, and that the ſame reverſion is thereby become now, and in all time coming, extinct, void, null and expired, and of no force, ſtrength nor effect, with all that may follow thereupon, ſicklike, as if the ſaid reverſion had never been made, granted, or ſubſcribed; and the ſame being ſo found and declared, it ought and ſhould be alſo found and declared, by decreet foreſaid, that the ſaid lands and others above wadſet, with the pertinents, pertain and belong, now and in all time coming, to the ſaid purſuer and his foreſaids, and decerned and ordained to remain and abide with them, as their own proper heritage; and that it ſhall be leiſome and lawful to them to ſell and diſpone thereupon, to whatſoever perſon or perſons they pleaſe, heritably and irredeemably, but any manner of reverſion, or hazard of redemption, by virtue of the foreſaid contract or reverſion therein contained, and now become extinct, as ſaid is, by whatſomever manner of way, after the form and tenor thereof, and clauſe irritant therein contained, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes in all points, as is alledged. *Our will is herefore*, &c. charge the ſaid H. M. *&c.* on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, (*to conclude*, ut ſupra, *from this* (6) *figure, till the words*, as is alledged,

ledged, *with the former diſtinction betwixt ſubſumption and concluſion, which, for brevity's cauſe, ye are to obſerve henceforth in all ſummonſes contracted,*) or elſe, *&c.* With certification, *&c.* According to juſtice, as ye will anſwer, *&c.*

Nota, No bill; and needs no continuation, ſince the contract proves what is incumbent on the purſuer.

Nota, There be various kinds and natures of reverſions, and their conditions and qualities thereto adjected, which are more fair and conſonant with juſtice and equity betwixt man and man, and at times admit of declarators alſo; and theſe reverſions, conditions, and qualities, are at length ſet down in the improper wadſet, which ye will find in the fifth part of the work, and for which (if neceſſary) ſeek the index of the ſaid fifth part, and raiſe declarator accordingly, *mutatis mutandis*; only narrate the wadſet, reverſion, and the qualities adjected thereto, and ſubſume and conclude genuinely, and thereby a writer can never err; and be ſure to call therein, not only the heritor (granter of the wadſet) if on life, and if not, his apparent heir, and tutors and curators, if minor, but alſo all others having, or pretending to have intereſt, in common form; and needs no continuation, becauſe the contract of wadſet, and conditions and qualities therein contained, (which is the propoſition,) is clear, and the ſubſumption will be made appear, by inſtruments taken in a notary's hand, in preſence of famous witneſſes; and that done, the concluſion falls in conſequence, and is genuinely derived from both.

SUMMONS *of Declarator of Nonentry in Feu Lands* cum maritagio, *holden of a Subject.*

GEORGE, *&c.* To our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, That ye peremptorily ſummon, warn, and charge A. B. eldeſt lawful ſon and apparent heir to the deceaſed C. D. of -----, laſt immediate heritable tenant and vaſſal to Our right truſty and well beloved couſin and familiar counſellor J. M. of A. in the lands and others after ſpecified, holden by him and his predeceſſors, of his Lordſhip and his predeceſſors and authors in feu-farm *cum maritagio*, in manner aftermentioned; and —— tenants and poſſeſſors of the ſaid lands and others foreſaid, with the pertinents —— and the tutors and curators of ſo many of the ſaid defenders as are minors, if they any have, for their intereſts, and all others having or pretending to have intereſt in the matter under written, by open proclamation at the market-croſs of ——, and other places needful, to compear before Our Lords, *&c.* to anſwer at the inſtance of the ſaid J. M. of A. ſuperior of the lands and others after ſpecified, *viz. (here leave blank for the lands, which ſhould be deſigned as in the charter)* lying within the pariſh of ——, and ſheriffdom of ——, and of whom and his predeceſſors the ſame are holden by the ſaid deceaſed C. D. and his predeceſſors feu *cum maritagio*, as ſaid is, and to whoſe great hurt and prejudice the ſaid A. B. his apparent heir, lies not only out unentered in the ſaid lands and others foreſaid, but alſo will not ſatisfy and pay to him the ſum of ——, uſual money of this realm, to which the marriage of the heir is liquidated by the original and modern rights and infeftments thereof; and

thereby the ſaid purſuer having ſufficient good and undoubted right and intereſt to proſecute, follow forth, and purſue the action of declarator, payment, and poinding of the ground after ſpecified, in manner after mentioned; *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the lands and others above ſpecified, pertaining heritably to the ſaid deceaſed C. D. hold of the ſaid purſuer and his foreſaids fee *cum maritagio*, and that the ſame have been in his own and predeceſſors hands ever ſince the deceaſe of the ſaid C. D. (laſt immediate heritable tenant and vaſſal to them therein), which was upon the —— day of —— 17— years, and ſo by the ſaid ſpace of ------, and as yet remain in the purſuer's hands by reaſon of non-entry, and will continue ſo ay and while the lawful entry of the righteous heir thereto, and that therethrough the haill mails, farms, *&c.* and duties of the ſame, appertain and belong to him during the ſaid ſpace, and that he ought and ſhould be anſwered, obeyed, and paid thereof by the ſaid A. B. and remanent defenders, tenants and poſſeſſors of the ſaid lands and others foreſaid; and likewiſe, to hear and ſee it found and declared, that the marriage of the heir is liquidated, by the ſaid rights and infeftments, to the ſum of ------ *toties quoties contigerit*; and the ſame being ſo found and declared, the ſaid defenders, and tenants and poſſeſſors of the ſaid lands and others foreſaid, to hear and ſee themſelves not only decerned and ordained, by decreet foreſaid, to make payment to the ſaid purſuer of the ſaid ſum of ------ money forefaid, for the marriage of the ſaid A. B. apparent heir foreſaid, but alſo to hear and ſee themſelves decerned and ordained to make payment to the ſaid purſuer of the ſaid mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid yearly, ſince the deceaſe of the ſaid C. D. which was at the time above ſpecified, and ſo by the ſpace foreſaid, extending to the particular quantities, avails, and prices after ſpecified, each one of them for their own parts, as is after divided, *viz.* *(leave blank for half a ſheet)* and ſicklike, to make payment to him of the like duties yearly and termly in time coming, ay and while the lawful entry of the righteous heir thereto, and during the ſaid tenants their poſſeſſion; and for the ſaid purſuer his better and more ſure payment, to hear and ſee Our other letters decerned and ordained, by decreet of Our ſaid Lords, to be directed to meſſengers at arms, conjunctly and ſeverally, charging them to paſs, and, in Our name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind, and diſtrenzie the readieſt moveable goods and gear, being, or that ſhall happen to be upon the ground of the ſaid lands and others foreſaid, with the pertinents, to the avail and quantities of the ſaid mails and duties, and that yearly, the years of God particularly above mentioned, and in time coming during the ſpace above expreſſed, and alſo to the avail and quantity of the ſaid marriage, or price thereof above ſpecified, and make the ſaid purſuer completely paid thereof; and failing of moveable goods and gear poindable and diſtrenzieable, to appriſe or adjudge all and ſundry the ground-right and property of the ſaid lands and others foreſaid, for payment and ſatisfaction to him thereof, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points; or elſe to

alledge

alledge a reaſonable cauſe, *&c.* With certification *(as in the former declarator of this nature; and, becauſe the rent muſt be proven and liquidated, to inſert a ſecond diet, and conclude with)* According to juſtice, as ye will anſwer, *&c.*

Nota, 1. This ſummons needs no bill, the king not being concerned, and ſo no concourſe of his advocate requiſite. 2. *Obſerve*, That were it not for the marriage, and to oblige the vaſſal to enter, there was no neceſſity for this ſummons; for the feu-duty is ſtill the retoured duty in all feus, and if that be paid, the ſuperior's loſs is only the duplication, or what elſe provided at the entry by the vaſſal's charter and infeftment; and if the feu-duty be reſting, the ſuperior may either purſue reduction on the clauſe irritant in the feu-infeftment, if any be, and, if not, upon the act of parliament. 3. But ſometimes the marriage is not taxed; in which caſe, if a liquidation be craved before the Lords, the vaſſal may alledge, that he holds land ward of the king, and who being preferable in law, he cannot be liable to two marriages; and, upon the other hand, the ſuperior may contend, that theſe lands held feu of him and his predeceſſors for many years *cum maritagio*; and the lands being given out in theſe terms, long before ever he or his predeceſſors acquired lands holden of the king, this ſubſequent acquiſition cannot prejudge the purſuer's *pactum conventum*; and beſides, the marriage now craved, extends no further than *quoad* the fortune holden feu; whereas the marriage due to the king, as it is of the nature of the holding of ward-lands, ſo its value is to be liquidated and extended as to all the fortune he hath, and the firſt is taxative, and the laſt abſolute and univerſal. But for theſe queſtions, they belong to lawyers, and no doubt decided by the Lords, albeit the ſuperior can claim nothing during the paſt nonentry but the feu-duty, yet after citation he claims the rents.

SUMMONS *of Declarator upon a Gift of Recognition.*

GEORGE, *&c.* To Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by J. M. of ——, donatar after ſpecified, and S. G. M. of R. Our advocate for Our intereſt, in the matter underwritten, That where We, with conſent of the Lords commiſſioners of Our treaſury and exchequer, by a gift of recognition, under Our great ſeal of this Our ancient kingdom of Scotland, of the date at Whitehall the —— day of —— 17— years, for the cauſes, and upon the conſiderations therein ſpecified, gave, granted, and diſponed, and, for Us and Our royal ſucceſſors, perpetually confirmed to the ſaid J. M. purſuer, and to his heirs therein ſpecified, and his aſſignees heritably, all and haill (*here take in the lands as they are ſet down in the gift, and then ſay,*) which lands and others above diſponed, with the pertinents, pertained heritably of before to S. W. S. of ——, holden by him immediately of Us and Our royal ſucceſſors, by ſervice of ward and relief, and, the time of the ſaid gift, appertained and belonged to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition, as ſuperior and over-lord, by reaſon of recognition, laws and practique of this Our realm, and inherent privilege of Our crown, by and through the ſaid S. W. S. his wadſetting and impignorating the

ſame, or by ſelling and diſponing thereof irredeemably, or by granting rights of annualrents, or other rights forth thereof, or at leaſt out of ſome portions of the ſame to ſeveral perſons, and whereupon baſe infeftments followed, (and in all, exceeding and ſurmounting the *major pars* of the ſaid lands,) without Our conſent and confirmation had and obtained thereto, and ſo quite contrary and merely repugnant to the nature of the ſaid holding, and conſequently now appertain and belong to the ſaid J. M. purſuer, as donatar foreſaid, and his above ſpecified, to be uſed and diſpoſed upon by them, as their own proper lands and heritages, at their pleaſure in time coming, as the ſaid gift of recognition expede the great ſeal, as ſaid is, together with the inſtrument of ſaſine following thereupon, dated the —— day of —— thereafter, under the ſign and ſubſcription of —— notary public, and duly regiſtered, conform to the act of parliament, in themſelves more fully proport; and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid lands and others above diſponed, with the pertinents, were holden by the ſaid S. W. S. defender, of Us as ſuperior, by ſervice of ward and relief, as ſaid is; and that the ſame (at the time of the ſaid gift) pertained and belonged to Us as ſuperior, fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon foreſaid, and upon the account above ſpecified, and conſequently, that the ſame now appertain and belong to the ſaid purſuer, as donatar foreſaid, and his above ſpecified, to be uſed and diſpoſed upon by them, as their own proper lands and heritages, at their pleaſure in time coming, conform to the ſaid letter of gift, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaid S. W. S. of —— defender, perſonally, or at his dwelling-place, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market croſs of ——, and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, as donatar foreſaid, as alſo at the inſtance of Our ſaid advocate for Our intereſt, and with whoſe concourſe, the ſaid purſuer has ſufficient, good, and undoubted right and intereſt to proſecute, follow forth, and purſue the action of declarator after mentioned of the ſaid recognition, in manner after expreſſed: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords, that the ſaid lands and others above diſponed, with the pertinents, pertained heritably of before to the ſaid S. W. S. and were holden by him of Us as ſuperior, by ſervice of ward and relief, in manner foreſaid, and that the ſame (the time of the ſaid gift) pertained and belonged to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon of recognition, laws and practique of this Our realm, and inherent privilege of Our crown, by and through the ſaid defender his wadſetting and impignorating the ſame, or ſelling and diſponing thereupon irredeemably, or by granting rights of annualrent, or other rights furth thereof, or at leaſt out of ſome portions of the ſame, to ſeveral perſons, and whereupon baſe infeftments followed, and in all exceeding and ſurmounting the *major pars*

of

of the ſaid lands and others aforeſaid, and that without Our conſent and confirmation, quite contrary and repugnant to the nature of the ſaid holding; and that conſequently, the ſame lands and others foreſaid, now appertain and belong to the ſaid J. M. purſuer, as donatar foreſaid, and his above ſpecified, to be uſed and diſponed upon by them as their own proper lands and heritage, at their pleaſure in time coming, after the form and tenor of the ſaid gift, and ſaſine following thereupon, laws and practique of this Our realm in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaid defenders, if they fail, Our Lords of council and ſeſſion will proceed in the ſaid matter, and find and declare in manner foreſaid. According to juſtice, to be tabulate in Our table, and called by the order and privilege thereof, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer to Us thereupon.

Ex deliberatione Dominorum Concilii.

Nota, 1*mo*, The date of the bill muſt be the date of the ſummons. *Secundo*, Since there muſt be a *major pars* proven, (notwithſtanding of ſaſines produced) by the purſuer, and which the ſaſines cannot prove, I think this ſummons ſhould contain a ſecond diet, that if the defender, upon oath, acknowledge the rental, and comparing it with the rights granted, the *major pars* may be clear, then it makes ſhort proceſs; but it is all one, ſeeing creditors for the moſt part compear, and witneſs fair play, and perpend the grounds, and not only object, but the Lords grant a conjunct probation as to the rental, (even where there is no donatar, but the recognition purſued at the king's advocate's inſtance merely, and for the king's uſe), as was done in the recognition of Cromarty, wherein the Lords ſhew much juſtice and candour, without the leaſt ſhadow of partiality. *Tertio*, I was adviſed once to conclude in the ſame ſummons, exhibition of the writs againſt the heritors, and payment of the duties againſt the tenants, who in that caſe were to be convened as well as the heritor; but I judged it extreme, and too ſummar proceſs, albeit I did ſee no incongruity in it, no more than to purſue an exhibition of a bond, and, being exhibited, to adject a concluſion of payment: and ſo I forbear it, following the ordinary ſtyle.

SUMMONS *of Declarator of Baſtardy as to a Gift of Moveables.*

GEORGE, *&c.* To Our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by A. B. of —— donatar after ſpecified, and S. G. M. of —— Our advocate, for Our intereſt, in the matter under written, That where We, with conſent of the Lords of Our treaſury and exchequer of Our ancient kingdom of Scotland, by Our letter of gift, under Our privy ſeal of the ſaid kingdom, of the date the — day of —— 17— years, gave, granted, and diſponed to the ſaid A. B. purſuer, his heirs and aſſignees, the eſcheat of all goods, gear, *(here take in the words of the diſpoſitive clauſe of the gift, till ye come to* with full power,

power, *and then ſay)* as the ſaid letter of gift, of the date foreſaid, in itſelf more fully proports: *And therefore*, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the (6) foreſaid goods, gear, debts, ſums of money, and others after ſpecified, which pertained of before to the ſaid deceaſed ——, pertained and belonged to Us the time of the ſaid gift, and that the ſame fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon of baſtardy, laws and practique of this realm, and inherent privilege of Our crown, by and through the ſaid deceaſed ——, his being born baſtard, and deceaſing baſtard, without heirs lawfully begotten of his own body, or lawful diſpoſition made by him thereof, at any time in his lifetime; and conſequently, that the ſame now appertains and belongs to the ſaid purſuer, as Our donatar, and his foreſaids, and that they ought and ſhould be anſwered, obeyed, and paid thereof, conform to the ſaid letter of gift, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge —— *(it is fit to cite the perſon who might have ſucceeded as neareſt of kin, had he been lawfully begot, and not baſtard)* perſonally, or at his dwelling-place, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid A. B. donatar foreſaid, and alſo at the inſtance of Our ſaid advocate for Our intereſt, and with whoſe concourſe, Our ſaid donatar has ſufficient, good, and undoubted right and intereſt to proſecute, follow forth and purſue the action of declarator after ſpecified, in manner after mentioned: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the *(here take in from the* (6) *figure till ye come to* as is alledged, *and then ſay)* or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders if they fail, Our ſaid Lords will proceed in the ſaid matter, and find and declare in manner foreſaid. According to juſtice, to be tabulate in Our table, and called by the order and privilege thereof, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.* *Ex deliberatione Dominorum Concilii.*

Nota, If a ſpecial declarator be requiſite, the gift and decreet of general declarator muſt be narrated (as that of an eſcheat) and then a ſubſumption and a concluſion of payment againſt the debitors, *&c.*

SUMMONS *of Declarator of Baſtardy as to Heritage.*

GEORGE, *&c.* To Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. of —— donatar after ſpecified, and S. G. M. of —— Our advocate, for Our intereſt, in the matter under written, That where We, with conſent of the Lords of Our treaſury

treaſury and exchequer, by Our gift under the great ſeal of Our ancient kingdom of Scotland, of the date at Windſor Caſtle the —— day of —— 17—— years, gave, granted, and diſponed, and, for Us and Our royal ſucceſſors, perpetually confirmed to the ſaid A. B. purſuer, and to his heirs and aſſignees therein ſpecified, heritably, all and haill *(here take in the lands as they are nominated, deſigned, and bounded in the gift, and then ſay)* and which lands, and others above diſponed, with the pertinents, pertained heritably of before to the deceaſed ——, and, the time of the ſaid gift, pertained heritably to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon of baſtardy, laws and practique of this Our realm, and inherent privilege of Our crown, through the ſaid deceaſed ------ his being born baſtard, and deceaſing baſtard, without heirs lawfully begotten of his own body, or lawful diſpoſition made by him thereof to any perſon or perſons at any time in his lifetime, to be holden the ſaid lands and others foreſaid, to the ſaid purſuer and his foreſaids, of Us and Our royal ſucceſſors in fee and heritage for ever, with the privilege, and for payment of the duty therein expreſſed, as the ſaid gift, expede the great ſeal, as ſaid is, containing precept of ſaſine, together with the inſtrument of ſaſine following thereupon, under the ſign and ſubſcription of —— notary public, and duly regiſtered conform to the act of parliament, in themſelves more fully is contained: *And therefore*, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that (6) the lands and others above ſpecified, with the pertinents, pertained heritably of before to the deceaſed ——, and that, the time of the ſaid gift, the ſame pertained and belonged to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition by reaſon of baſtardy, laws and practique of this Our realm, and inherent privilege of Our crown, by and through the ſaid deceaſed —— his being born baſtard, deceaſing baſtard without heirs lawfully begotten of his own body, or diſpoſition lawfully made by him thereof, to any perſon or perſons at any time in his lifetime, at leaſt in his *liege pouſtie*, and conſequently, that ever ſince the ſaid giſt, and in time coming, the ſame appertains to Our ſaid donatar and his foreſaids, to be uſed and diſponed upon by them, as their own proper lands and heritages, at their pleaſure in all time hereafter, after the form and tenor of the ſaid gift, expede the great ſeal, as ſaid is, inſtrument of ſaſine following thereupon, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge *(here cite the neareſt perſon who might ſucceed in law to the baſtard, had he been lawfully begot in wedlock, and then ſay)* perſonally, or at his dwelling-place, on twenty one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of —— and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid A. B. Our donatar, and alſo at the inſtance of the ſaid S. G. M. Our advocate, for Our intereſt, and with whoſe concourſe Our ſaid donatar has ſufficient, good and undoubted right and intereſt to proſecute, follow forth, and purſue the action of declarator after ſpecified, in manner after mentioned;

That

That is to say, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords, that *(here take in from this figure of* (6) *in the ſubſumption, till ye come to* as is alledged, *and then ſay)* or elſe to alledge a reaſonable cauſe, *&c.* (*Conclude as in the former ſummons* uſque ad finem.)

Ex deliberatione Dominorum Concilii.

Note, Becauſe I found this ſummons upon a gift under the great ſeal, it will not be impertinent to guard you againſt a vulgar but ancient error, *viz.* As it is beyond queſtion, that when lands thus fallen, and holding ward, blench or feu of the king, muſt paſs the great ſeal, ſo ſhould, in my opinion, tenements and others within burgh, holden burgage *de domino rege*, and not by preſentation under the quarter ſeal, as of late has been uſed, directed to the magiſtrates of burgh. For I reaſon the point thus: That all property holding of the king muſt neceſſarily be conveyed under the great ſeal, and that this of burgage holds of the king, and not of the magiſtrates, who are but his baillies and officials, as repreſentatives of the royal authority within burgh, cannot be denied; and in the gift under the great ſeal, the precept as to that of the burgage, may be directed to the magiſtrates; whereas there is a great diſtinction betwixt the conveyance in caſe of baſtardy, or *ultimus hæres* of lands holding burgage of the king, and lands holding feu of the town, for that which holds of the town, becauſe the king can be vaſſal to no ſubject, he gifts the ſame to a perſon, and preſents him in vaſſal, and heritable tenant to the magiſtrates of whom the lands hold (even as if they held of any other lord or baron) and this indeed ſhould paſs under the quarter ſeal, becauſe they are ſuperiors: So that it ſeems the former error flowed from this miſtake, that burgage, as well as lands holden of the town, run in one channel; but, that the contrary now appears, by what has been ſaid, is clear.

SUMMONS *of Declarator of a Gift of* Ultimus Hæres.

GEORGE, *&c.* To Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. of —— donatar after ſpecified, and S. G. M. of —— Our advocate, for Our intereſt, in the matter under written, That where We, with conſent of Our Lord high treaſurer of Our ancient kingdom of Scotland, Lord treaſurer-depute, and remanent Lords of Our exchequer of the ſaid kingdom, Our commiſſioners, by Our gift, under Our great ſeal of the ſaid kingdom, of the date at Hampton-Court the — day of —— 17— years, gave, granted, and diſponed, and for Us and Our royal ſucceſſors, perpetually confirmed to the ſaid A. B. purſuer, and to his heirs and aſſignees whatſoever, heritably, all and haill *(here take in the lands as they are denominated, deſigned, and bounded in the gift, and then ſay)* which lands, and others above ſpecified, with the pertinents, pertained heritably of before to the deceaſed ——, and, the time of the ſaid gift, pertained and belonged to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon of *ultimus hæres*, laws and practique of this Our realm, and inherent privilege of Our crown, by and through his deceaſe without heirs lawfully begotten of his own body, or of any other perſon within the tenth degree in blood, who

who by law might ſucceed to him therein, to be holden, and for to hold the ſaid lands and others foreſaid, to the ſaid A. B. and his foreſaids, of Us and Our royal ſucceſſors, as ſuperiors, in fee and heritage for ever, with the privileges, and for payment of the yearly duty ſpecified in the faid gift, as the ſame, of the date foreſaid, containing precept of ſaſine, and expede the great ſeal, as ſaid is, together with the inſtrument of ſaſine following thereupon, the ----- day of ----- thereafter, under the ſign and ſubſcription of ----- notary-public, and duly regiſtered, conform to the act of parliament, in themſelves more fully proport; and therefore; it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that (6) the ſaid lands and others above ſpecified, with the pertinents, pertained heritably of before to the ſaid deceaſed ---- and that the ſame, the time of the ſaid gift, pertained and belonged to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon of *ultimus hæres*, laws and daily practique of this Our realm, and inherent privilege of Our crown, by and through the ſaid ----- his deceaſe, without heirs lawfully begotten of his own body, or of any other perſon within the tenth degree in blood, who, by law, might have ſucceeded to him therein, and conſequently now appertain and belong to Our ſaid donatar and his foreſaids, heritably, to be uſed and diſponed upon by them, as their own proper lands and heritage, at their pleaſure, in all time coming, after the form and tenor of the ſaid gift, ſaſine following thereupon, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge, (*here leave blank for a line to cite any perſon of the name* pro more, *and then ſay*,) perſonally, or at their dwell-places, on twenty-one days warning, and all others having or pretending to have intereſt in the ſaid matter, by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid A. B. as donatar foreſaid, and alſo at the inſtance of Our ſaid advocate, for Our intereſt, and with whoſe concourſe Our ſaid donatar has ſufficient, good and undoubted right and intereſt to proſecute, follow forth, and purſue the action of declarator after ſpecified, in manner after mentioned: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that (*here take in from this* (6) *figure in the ſubſumption, until ye come to*, as is alledged, *and then ſay*) or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification, *&c.* (*To conclude as in the former ſummons* uſque ad finem.)

Ex deliberatione Dominorum Concilii.

Nota, If there be a moveable eſtate and heritable bonds whereupon no infeftment followed, it paſſes only the privy ſeal.

SUMMONS *of Diſclamation at the King's Advocate's Inſtance, for his Majeſty's Uſe.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpective, &c.* Whereas it is humbly meant and ſhown to Us by S. J. N. of D. Our advocate, for Our intereſt, in the matter under written, That where, by the laws and practique of this realm, where any vaſſal diſclaims his ſuperior and over-lord, and becomes vaſſal to any other perſon, not the true and lawful ſuperior, (and ſpecially by reſignation, or ſervice and retour, and infeftment following thereupon, which are voluntary and fraudulent, not ignorant acts,) all the lands and others ſo taken, and holden of the wrong ſuperior, returns and reverts to the firſt and lawful ſuperior, and the vaſſal ſo diſclaiming, amits and tynes the benefit thereof: *And true it is*, That C. D. of — and his predeceſſors and authors, held the lands and others after ſpecified, of Us and Our moſt royal progenitors, in manner, and for payment of the duties after mentioned, *viz.* (*here ſet down the lands and manner of holding, and duty payable,*) conform to the ancient rights and infeftments thereof, and that We and Our foreſaids, or either of Us, have been in poſſeſſion of the ſuperiority thereof, by receiving reſignations, granting infeftments thereon, confirmations, and precepts on retours, and the like, and by exacting and receiving, by Our treaſurer, chamberlains and donatars, of the duties and caſualties ariſing thereby, paſt preſcription, yea, all memory of man; and which alſo clearly appears, and is made manifeſt and apparent, not only by the books and rolls of Our exchequer, but alſo from the ſeals and other public regiſters, ſo that in law We could not be deprived of Our juſt right, without a deed flowing from Ourſelves; and yet, notwithſtanding thereof, the ſaid C. D. has diſclaimed Us, as his immediate lawful ſuperior, in ſo far as he has of late taken the ſaid lands and others foreſaid, holden of J. M. of ——— as his immediate ſuperior, either by reſignation, or by precept under the quarter ſeal, proceeding upon his retour, as heir in ſpecial to the deceaſed ——— his father, or other his predeceſſor, or ſome other manner of way, quite contrary, and merely repugnant to the ſaid ancient rights and infeftments, and thereby committed ingratitude, wherethrough, and by the ſaid laws and conſtant practique of this kingdom, he has amitted and tint the property thereof, and the ſame reverts and returns to Us and Our royal ſucceſſors in property, and are conſolidated with the ſuperiority, to remain and and abide with Us in all time coming, *ad perpetuam remanentiam*, (8) and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that (6) the ſaid lands and others above ſpecified, were holden by the ſaid C. D. and his predeceſſors and authors, of Us and Our foreſaids, the way and manner above ſpecified, conform to the ancient rights and infeftments thereof; and that We and Our moſt noble progenitors, or either of Us, have been in poſſeſſion of the ſuperiority thereof, by the deeds above mentioned, and for the ſpace above rehearſed; and which alſo clearly appears, and is made

made manifeſt and apparent, not only by the books and rolls of Our exchequer, but alſo from the ſeals and other public regiſters, ſo that in law We could not be deprived of Our juſt right, without a deed flowing from Ourſelves; and that, notwithſtanding thereof, the ſaid C. D. has diſclaimed Us for his immediate lawful ſuperior, by doing the deeds above mentioned, quite contrary, and merely repugnant to the ſaid ancient rights and infeftments, and committed manifeſt ingratitude againſt Us, and that therethrough, by the ſaid laws and conſtant practique of this kingdom, he has amitted and tint the benefit thereof, and the ſaid lands and others foreſaid, revert and return to Us and Our royal ſucceſſors in property, and are conſolidated with the ſuperiority, to remain and abide with Us in all time coming, *ad perpetuam remanentiam*, (9) after the form and tenor of the ſaid laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid C. D. heritor of the ſaid lands and others foreſaid, and the ſaid J. N. pretended ſuperior of the ſame, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having or pretending to have intereſt in the ſaid matter, by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of Our ſaid truſty counſellor S. J. N. Our advocate, for Our intereſt, and thereby having, for Our uſe and behoof, ſufficient, good, and undoubted right and intereſt, to proſecute the action of declarator and diſclamation after ſpecified, in manner after mentioned: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that (*here take in from this* (6) *figure, in the ſubſumption, till ye come to*, as is alledged, *and then ſay*) or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to them if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare, in manner foreſaid. According to juſtice, to be tabulate in Our table, and called by the order and privilege thereof, conform to the ſaid laws and daily practique, and order uſed and obſerved in the like caſes, and the ſaid Lords their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, The date of the bill muſt be the date of the ſummons; and the Lord advocate ſubſcribing the ſame, being complainer, is ſufficient. 2. There be ſeveral other ſorts of diſclamations, as ye will find in *De ſignificatione verborum*, letter D, which I omit, as not being uſual. 3. I have ſeen a ſummons of this nature, in Sir Thomas Hope's time, wherein the Lord high treaſurer and treaſurer-depute, as well as the King's advocate, were purſuers; but in that caſe, the duties were purſued for, and the tenants convened, which in this caſe is not; and ſhould the other caſe occur, may likewiſe be made purſuers, all being for the King's intereſt; and in that caſe, payment muſt be ſubſumed, and concluded to the treaſurer and treaſurer-depute, and his Majeſty's collectors and under-receivers for the King's uſe, ſince the diſclamation, which, as to the time, would be particularly libelled, and in time coming, thus, after figure (8), By virtue whereof, we have good and undoubted right in and to the haill mails, *&c.* of the ſaid lands and others foreſaid, of the crop and year of God 17— years (being the firſt crop

wherein the ſaid diſclamation was committed), and yearly ſinſyne, and in all time coming; and We and Our Lord treaſurer, and treaſurer-depute, collectors and under-receivers in Our name, ought and ſhould be anſwered, obeyed and paid thereof: *And true it is*, that the perſons *reſpective* after named, tenants and poſſeſſors of the ſaid lands and others foreſaid, are addebted and reſting owing the mails, farms, kains, cuſtoms, caſualties, profits and duties thereof after ſpecified, yearly, the crops and years of God after mentioned, of the avails, quantities, eſtimations and prices under written, each one of them for their own parts, as is particularly after divided, *viz.* (*leave blank for half a ſheet, and then ſay*) at leaſt the ſaid A. B. has uplifted and received the ſame from them, and granted diſcharge thereupon. *And albeit it be of verity*, That Our ſaid treaſurer and treaſurer-depute, collectors and under-receivers, in Our name, have oft and divers times deſired and required the ſaid tenants and poſſeſſors, to have made payment to them of the ſaid mails, *&c.* yearly, the years of God above ſpecified, or of the avails, eſtimations and prices thereof above mentioned, each one of them for their own parts, as ſaid is; at leaſt, the ſaid A. B. who has uplifted and received the ſame from them, and granted diſcharge in manner foreſaid, to have made payment to them thereof, and likewiſe deſired and required the ſaid tenants and poſſeſſors, to have made payment to them of the like duties and cuſtoms in time coming; nevertheleſs, *&c.* and therefore it ought and ſhould be found and declared (ut ſupra, *in the ſubſumption, till ye come to this* (9) *figure, and then ſay*) and the ſame being ſo found and declared, the forenamed perſons, tenants and poſſeſſors of the ſaid lands and others foreſaid, ought and ſhould be decerned, by decreet foreſaid, to make payment to Our ſaid treaſurer and treaſurer depute, collectors and under-receivers, for Our uſe, of the mails, farms, *&c.* of the lands and others foreſaid yearly, the years of God above written, or of the avails, eſtimations and prices of the ſame above rehearſed, each one of them for their own parts, as ſaid is; at leaſt, the ſaid A. B. as he who uplifted and diſcharged the ſame, in manner foreſaid, ought and ſhould be decerned to make payment to them thereof; and in like manner, the ſaid tenants and poſſeſſors ought and ſhould be decerned to make payment to them of the like duties and caſualties yearly in time coming during their poſſeſſion, conform to the laws and daily practique of this Our realm, in the like caſes, in all points, as is alledged *Our will is*, ut ſupra, *and conclude accordingly; only convene the tenants, and put in a ſecond diet, becauſe the duty muſt be liquidated and proven, and the maſters uplifting and diſcharging, muſt be proven by the diſcharges which the tenants will produce to exoner themſelves.*

SUMMONS *of Purpriſion at a Superior's Inſtance, who is a Subject, againſt his Vaſſal.*

GEORGE, *&c.* To ——— Our ſheriffs in that part, and meſſengers *reſpective*, *&c.* Whereas it is humbly meant and ſhown to us by J. M. of A. ſuperior of the lands and others after ſpecified, That where A. B. of ——— holds the lands and others after mentioned, *viz.* (*leave blank for a quarter of a ſheet*) of the purſuer, as his immediate lawful ſuperior, conform to the rights and infeftments granted by the purſuer or his predeceſſors and authors to him thereupon; likeas, by the laws and practique of this Our realm, when any vaſſal occupies and uſurps any lands againſt his over-lord and ſuperior, and if the vaſſal is convicted, and found to have done wrong, he loſes perpetually all the lands which he holds of the ſuperior: *And true it is*, the ſaid defender having his ſaid lands

lands adjacent and contiguous to the purſuer's lands of ——, and whereof he and his predeceſſors, by themſelves and their tenants, have been in peaceable and immemorial poſſeſſion, till the month of —— 17— years, that the ſaid defender, at his own hand, and without any order of law, has uſurped that part of the purſuer's lands (*here deſign the lands uſurped*) then poſſeſſed by —— the purſuer's tenants, extending in yearly duty to ——, and occupies and poſſeſſes the ſame himſelf ever ſince, now by the ſpace of ——, and extending in yearly rent to ——; wherethrough, conform to the ſaid laws and practique of this realm, he tynes and amits all the lands above ſpecified, holden by him of the purſuer, in manner foreſaid, and ought and ſhould be ſo declared, and the property conſolidated with the ſuperiority in the purſuer's perſon, and remain with him, his heirs-male and ſucceſſors, in all time coming, *ad perpetuam remanentiam*; beſides the reſtoring of what is unjuſtly uſurped, with the duties and profits thereof, in manner under written, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaid A. B. defender —— on twenty-one days warning, and all others having or pretending to have intereſt in the ſaid matter, *&c.* to compear before our Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the ſaid defender holds the lands above ſpecified of the purſuer, as his immediate lawful ſuperior, and that, the time above mentioned, the defender, notwithſtanding, uſurped the ſaid lands of ——, and labours and manures the ſame ever ſince, without any order of law or juſtice, and that the ſaid lands ſo uſurped, extend in yearly rent to ——, as ſaid is; and the ſame being ſo found and declared, to hear and ſee it likewiſe not only found and declared, that the ſaid defender has thereby amitted and tint perpetually, all the lands and others above written, holden by him of the purſuer, by reaſon of purpriſion, and to hear and ſee the right of property thereof declared and conſolidated with the ſuperiority, in the purſuer's perſon, and decerned and ordained to remain and abide with him and his foreſaids, as their own proper heritage, in all time coming, *ad perpetuam remanentiam*; but alſo to reſtore and repone the purſuer in his own right and poſſeſſion of the ſaid lands and others foreſaid, wrongouſly uſurped from him by the defender as ſaid is, and to make payment to the purſuer of the ſaid yearly duty, which the ſame is worth, and did yield to him before the ſaid uſurpation; and ſicklike, of the like duty yearly in time coming, during the ſaid non-repoſſeſſion, conform to the laws and daily practique of this realm, uſed and obſerved in the like caſes in all points, or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid. (*Inſert the ſecond diet, and then conclude with*) According to juſtice, as ye will anſwer, *&c.*

Nota, There be divers ſorts of purpriſion; ſome thereof are to be purſued before the juſtice, and by a condign aſſize judged where the king is concerned; others allowed to be purſued in the ſuperior's own court, being a ſubject; and others (as betwixt neighbour and neighbour,

bour, either for lands, or as to marches, which now resolves in a molestation) may be pursued before the sheriff by way of cognition; as to which, clerks to the signet write letters upon the act of parliament directed to the sheriff and his deputes, which letters ye will find amongst the other letters that pass the signet in their proper place: Some writers make them by way of simple horning; but these being too summar against a man in office, I ever write them, but with certification other letters would be directed, charging them thereto *simpliciter*, and is sufficient; for seldom or never but the sheriff gives obedience, except he or depute be in propinquity of blood to the defender: In which case, and upon a representation and evidence thereof to the Lords, they will grant letters upon bill to another indifferent person, as sheriff in that part. But, to insist no more on this (being a point belonging to lawyers to scance on) I remit you to my Lord Stair's writings, and *De significatione verborum*, which are very full on the matter.

SUMMONS *of Declarator of a Trust of a Disposition of Lands, including a denuding.*

GEORGE, *&c.* To Our lovits ——, Our sheriffs in that part, and messengers *respectivè, &c.* Whereas it is humbly meant and shown to us, by J. M. of A. That where the said pursuer having, upon the —— day of —— 17— years, acquired the lands of ——, with the teinds and pertinents, from L. C. J. M. of —— he took the disposition and right thereof blank in the name, and continued so several years, and in the end filled up J. M. of —— his name therein, and infeft him thereupon, by A. B. superior in trust, for and to the pursuer's own behoof; and which trust is most evident and clear from the several grounds and qualifications after specified: *And albeit it be of verity*, that the said deceased J. M. during his lifetime, acknowledged the said trust, and that it consists with the knowledge of J. M. now of —— his eldest lawful son, and besides the truth and certainty thereof from the other grounds and qualifications aforesaid, and that the said pursuer has oft and divers times desired and required the said J. M. as eldest lawful son and heir served and retoured to him, at least lawfully charged to enter heir to him within forty days, conform to the act of parliament, at least bearing and behaving himself as heir to him, by intromission with his heirship-goods and gear, *titulo lucrativo*, at least singular successor to him in his other lands and heritages after the said trust, or as representing him upon one or other of the passive titles, to obtain himself (6) duly and lawfully served and retoured heir in general, and likewise in special to his said deceased father, in the said lands and others foresaid, contained in the said disposition of trust, and accordingly infeft therein on the said special retour, and by precept of *clare constat* from the said A. B. superior; and being so served, retoured, and infeft, to denude himself, as heir foresaid, of the said lands and right, in favours of the said pursuer, his heirs-male and assignees heritably and irredeemably, and to make, grant, subscribe, and deliver to them sufficient dispositions, containing procuratories of resignation, and other securities requisite and necessary thereanent, and to assign them to the said disposition and infeftments, and other

other rights of the ſaid lands and teinds thereof, with the mails and duties of the ſame ſince the term of Whitſunday 17-- years, being the term immediately antecedent to his ſaid father's deceaſe, and in all time coming, with warrandice from his own and his ſaid deceaſed father their proper facts and deeds allenarly: *Neverthelefs*, (7) he wrongouſly refuſes, *&c.* and therefore it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid lands, with the pertinents and teinds thereof, were acquired by the ſaid purſuer from the ſaid L. C. J. M. of ——, and that he took the diſpoſition thereof blank in the name, and thereafter filled up the ſaid deceaſed J. M. of —— his name therein, and obtained him infeft thereupon by the ſuperior as ſaid is, and all in truſt for, and to the purſuer's own uſe and behoof in manner foreſaid, in ſo far as, 1. In the minute of agreement paſſed betwixt the purſuer and the ſaid L. C. J. M. in relation to the ſaid lands, the purſuer was only party-contracter with the diſponer therein, and the perſon obliged in payment of the 10,000 l. Scots of price. 2. By the very diſpoſition itſelf, and which is relative to the ſaid minute, it is acknowledged in the ſubſumption, that the price was paid to the purſuer, (not the truſtee); and therefore, and at the purſuer's deſire, diſpones in favours of the blank perſon. 3. The diſpoſition was never the truſtee's evident, but, after the ſubſcribing thereof, was ſo delivered to the purſuer, and by his order filled up with the ſaid deceaſed J. M. his name, by one of the purſuer's ſervants yet living, and will be made alſo appear by the notary to whom the purſuer gave the diſpoſition, to make reſignation in the ſuperior's hands, and by the ſuperior who received the ſaid reſignation, and granted charter conform, and thereupon alſo ſaſine followed, and the ſaid diſpoſition, inſtrument of reſignation, charter and ſaſine delivered to the purſuer, and with whom they remain and continue, and are in his cuſtody to this day. 4. The ſaid deceaſed J. M. of —— being chamberlain to the purſuer for many years, and intruſted in the uplifting of his rents, he, in his chamberlain accompts, after the ſaid acquiſition, charged himſelf with the rents and cuſtoms of theſe lands, as well as the reſt of the purſuer's eſtate, yea, from the term of Whitſunday 17— years, to the ſaid term of Whitſunday immediately preceding his deceaſe, and ſo by the ſpace of —— years; and any tacks granted to the tenants, were ſtill ſubſcribed by the purſuer as heritor; and which diſcharges granted to the tenants, were after the acquiſition ſubſcribed by the purſuer himſelf, or by the ſaid defunct as his chamberlain, and not as heritor, which he nor no man would have done had he been heritor, and the intereſt properly his own, and not a mere truſtee, in manner foreſaid; and by all which grounds and evidents, either jointly or ſeparately, the ſaid truſt is moſt clear and apparent: And the ſame being ſo found and declared, the ſaid J. M. now of —— upon the paſſive titles above ſpecified, or one or other of them, ought and ſhould be decerned by decreet of the ſaid Lords, to obtain himſelf (*follow furth the ſtyle above, from this figure* (6) *till ye come to* nevertheleſs, *figure* (7), *and then ſay,*) conform to the truſt repoſed in his ſaid deceaſed father, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you,

you, that ye lawfully ſummon, warn, and charge the ſaid J. M. now of —— *nominibus paſſivis quibus ſupra*, perſonally, or at his dwelling-place, on twenty-one-days warning, and all others having, or pretending to have intereſt, *&c.* to compear before Our ſaid Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the ſaid lands, with the teinds and pertinents, were acquired by the purſuer, from the ſaid L. C. J. M. of ——, and that he took the diſpoſition thereof from him blank in the name, and thereafter filled up the ſaid deceaſed J. M. his name therein, and obtained him infeft thereupon by the ſaid ſuperior, as ſaid is; and all in truſt, for and to the purſuer's own uſe and behoof, in manner foreſaid, and that the ſaid truſt is clear and evident, by and from the grounds and evidents above adduced, either jointly or ſeparately taken, in manner above mentioned; and the ſame being ſo found and declared, the ſaid defender, upon the paſſive titles above ſpecified, or one or either of them, to hear and ſee himſelf, (*here take in as in the ſubſumption, from this figure of* (6) *till ye come to* nevertheleſs, *and then ſay,*) conform to the ſaid truſt repoſed in the defender's father, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern, and declare in manner foreſaid; and if the ſaid defender fail, and compear not, day and place foreſaid, that ye meſſengers at arms (*inſert a ſecond diet, and then conclude*) According to juſtice, as ye will anſwer, *&c.*

This ſummons needs no bill.

SUMMONS *of Declarator of the Cauſe of granting of a Bond, and that the ſame did not exiſt, and concluding an exhibition thereof to be delivered and cancelled.*

GEORGE, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. of ——, That where the ſaid purſuer, having in the month of —— 17— years, entered in a bargain and tranſaction with C. D. of ——, anent the lands of ——, the ſaid C. D. conſigned and depoſited a diſpoſition thereof in the hands of ——, and the purſuer likewiſe conſigned and depoſited in his hands, at the ſame time, a bond containing the ſum of —— Scots money, payable to the ſaid defender at the term of ——, with annualrents and penalty, in manner therein expreſſed, and which ſum was for the price of the ſaid lands, and both diſpoſition and bond were to remain ſo conſigned and depoſited in the ſaid —— his hands, and as a truſtee for both, until the —— day of —— thereafter, and

before

before which day the defender was to deliver to the purſuer a good and ſufficient progreſs of right, and to purge all incumbrances that affected the ſame, after ſearch of the regiſters: *And true it is*, That the ſaid defender has not, within the time prefixed, delivered the ſaid progreſs, or purged the ſaid incumbrances after the regiſters were ſought, and a liſt of incumbrances affecting the ſaid lands delivered to him in order thereto, by the ſpace of —— preceding the day prefixed for performance, as ſaid is; but, on the contrary, it is clear and evident, from the ſaid liſt and regiſters, that the incumbrances exceed and ſurmount, by the ſum of ——, the price of the land, ſo that the purſuer cannot with ſafety meddle with the bargain, neither will the ſaid truſtee deliver up to the ſaid purſuer the ſaid bond to be cancelled, without a decreet and ſentence for his warrant, and that the ſaid C. D. be called and convened in the proceſs for his intereſt; and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that (6) the ſaid bond and diſpoſition were conſigned and depoſited by both parties, in the hands of the ſaid ----------, in the terms, and upon the account above ſpecified; and that, albeit the day prefixed for performance be elapſed, yet the ſaid defender has not fulfilled his part, either in delivering to the ſaid purſuer the ſaid ſufficient progreſs of right of the ſaid lands, or yet in purging the ſaid incumbrances; but, on the contrary, the incumbrances exceed and ſurmount the price by the ſaid ſum of --------, as ſaid is, ſo that the purſuer cannot be in ſafety to meddle with the bargain, and that therethrough the bargain is *ipſo facto* diſſolved, as if the ſame had never been entered into, or the ſaid bond and diſpoſition conſigned and depoſited in manner foreſaid: And the ſame being ſo found and declared, the ſaid --------, in whoſe hands the ſame were conſigned and depoſited, as ſaid is, ought and ſhould be decerned and ordained, by decreet of Our ſaid Lords of council and ſeſſion, to exhibit the ſaid bond and diſpoſition before the ſaid Lords, to the effect the ſaid bond may be ordained to be given up to the ſaid purſuer, and the diſpoſition to the defender, both to be cancelled conform to the terms of the ſaid depoſitation, laws and daily practique of this Our realm; uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid --------, in whoſe hands the ſaid diſpoſition and bond were conſigned and depoſited as ſaid is, and the ſaid C. D. for his intereſt, perſonally, *&c.* on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defender to hear and ſee it found and declared, by decreet of the ſaid Lords, that (*take in from this* (6) *figure in the ſubſumption, till ye come to*, as is alledged; *only*, for ought and ſhould, *make* to hear and ſee, *and then ſay*) or elſe to alledge a reaſonable cauſe, *&c.* with certification, *&c.* (*and a ſecond diet, as in the preceding ſummons.*)

Nota, It is fit to give this ſummons a bill, becauſe it contains an exhibition, and the date of the bill muſt be the date of the ſummons; and however exhibitions be privileged on ſix days, yet becauſe there is a declarator conjoined, muſt be on twenty one days.

Nota, There may fall out many ſorts of declarators of this kind, and to ſet down a ſtyle of all were tedious, if not impoſſible, becauſe there be many ſubject matters, and alter the ſtyle; and therefore, take this caution for all, that a writer that makes a true narrative or propoſition, founded in law, or upon writ, or pure tranſaction, and a genuine ſubſumption and concluſion, can never err in ſtyle.

SUMMONS *of Spuilziation of Teinds.*

GEORGE, *&c.* To -------- Our ſheriffs in that part, and meſſengers *reſpective*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn, and charge --------, perſonally, or at their dwelling-places, on twenty-one days warning, to compear before Our Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of A. B. of --------, undoubted tackſman of the teinds parſonage and vicarage of the pariſh of --------, conform to the tack granted to him, his heirs and aſſignees thereupon, by J. M. of --------, titular of the ſaid teinds, with conſent of C. D. of --------, undoubted patron of the ſaid pariſh, for the ſpace of -------- years and crops after his entry thereto, which was at the term of -------- 17---- years, and thereafter to continue and endure ay and while the iſh and expiration of the ſaid tack, but any interval or breach of terms, ſtop, trouble, or impediment whatſoever, and which tack is dated the -------- day of -------- 17---- years; likeas, the ſaid purſuer, as tackſman foreſaid, raiſed inhibition on the ſaid tack, againſt all and ſundry the heritors, liferenters, wadſetters, tenants, and poſſeſſors of the ſaid lands and others lying within the ſaid pariſh, and which was accordingly executed againſt them, in due and competent form, long before the term of Lammas laſt bypaſt: And yet, notwithſtanding thereof, all the corns and vicarage teinds of the ſaid pariſh, ſhorn, ſtuked, ſtacked, led, violently ſpuilzied, and awaytaken from off the ground, by the ſaid defenders, and others in their names, of their cauſing and command, without any tack, right, licence or attolerance of the ſaid purſuer had and obtained thereto, and without requiring him by himſelf, or factors in his name, having his power and commiſſion, to come and teind the ſaid corns, and uplift the ſaid vicarage; and ſo, without any reſpect had to the purſuer's right, and inhibition raiſed and executed thereupon, and certification therein contained, quite contrary, and merely repugnant to the laws of this kingdom in that caſe provided, and daily and conſtant practique of the ſame, and thereby the ſaid purſuer having ſufficient, good, and undoubted right and intereſt, to proſecute, follow forth, and purſue the action of ſpuilziation after ſpecified, in manner after mentioned: *That is to ſay*, The ſaid defenders, for the wrongous, violent, and maſterful coming by themſelves, and others in their names, of their cauſing and command, as ſaid is, to the ground of the lands and others within the ſaid pariſh, in the months of Auguſt, September, October, and November laſt, or one or other of them, and one or other of the days of the

the ſaid months, and there, in the wrongous, violent, and maſterful ſpuilziation, intromitting with, leading, and awaytaking from off the ſame, of the haill corns growing on the lands and others within the ſaid pariſh, together with the haill ſtore, beſtial, and goods, hemp, lint, calves, lambs, kids, and others within the ſaid pariſh, liable in payment of vicarage teinds, and uſing and diſpoſing thereon at pleaſure, and that of the avails, quantities, eſtimations, and prices after mentioned, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz.* (*here leave blank for a ſheet or two, and then ſay*) and that without any tack, right, licence, or attoleration of the ſaid purſuer, as tackſman foreſaid, firſt had and obtained thereto, and after inhibition was duly and lawfully raiſed and executed at his inſtance of before againſt them, inhibiting them ſo to do, and without lawfully requiring him by himſelf, or factor in his name, having his power, to come and teind the ſaid corns, and uplift the ſaid vicarage teinds, which he was always moſt willing and ready to do; and which teinds were worth, and would have yielded to the purſuer, the particular quantities, numbers, value, eſtimations, and prices above ſpecified, had not the ſame been violently ſpuilzied, intromitted with, and awaytaken, as ſaid is, but that the ſame had been ſuffered to have been intromitted with, uplifted, and awaytaken by the ſaid purſuer, by virtue of his ſaid right and inhibition executed thereupon, in manner above expreſſed, and ſpuilziation of the ſaid purſuer therethrough, and of his right and poſſeſſion thereof, by virtue of the ſaid tack, and letters of inhibition raiſed and executed thereupon; and alſo, in the wrongous, violent, and maſterful keeping, detaining, and as yet withholding of the ſaid teinds parſonage and vicarage from the ſaid purſuer, continually ſinceſyne, now by the ſpace of ——; and therefore, to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that they have done wrong in the foreſaid wrongous, violent, and maſterful ſpuilziation, intromitting with, and awaytaking of the ſaid teinds parſonage and vicarage, and in the ſaid violent and maſterful keeping, detaining, and as yet withholding of the ſame from him, in manner, and by the ſpace above expreſſed; and the ſame being ſo found and declared, the ſaid defenders to hear and ſee themſelves decerned, by decreet foreſaid, to reſtore and deliver to the ſaid purſuer, as having right in manner foreſaid, his ſaid teinds parſonage and vicarage, of the quantity and numbers above ſpecified, and which the ſame would have amounted to, and yielded to him, had not the ſaid defenders wrongouſly, violently, and maſterfully ſpuilzied, intromitted with, and awaytaken the ſame, in manner, and at the time above mentioned; but that they had ſuffered and permitted him, by himſelf or factors, having his power, to have teinded with them, and uplifted the ſame, and required him for that effect, and which he was always willing and moſt ready to do; or elſe to make payment to him of the avails, eſtimations, and prices thereof above rehearſed, each one of them for their own parts, as ſaid is, conform to his ſaid tack, inhibition raiſed and ſerved thereupon, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.*

With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion, will proceed in the ſaid matter, and find, decern, and declare in manner foreſaid, (*Inſert a ſecond diet, and thereafter ſay*) According to juſtice, as ye will anſwer, *&c.*

Nota, Theſe inhibitions are ſometimes raiſed before the Lords, and ſometimes before the commiſſaries, and are not regiſtered as other inhibitions, ſo that I have libelled in the general, which agrees with both caſes.

Nota, There is another ſummons of ſpuilzie, called ſummons of recent ſpuilzie, becauſe the perſon injured complains, and raiſes a ſummons within fifteen days after the committing, and ſo the law allows the ſame to be privileged by bill on fifteen days; and as any man will write the bill, knowing all by the former ſtrain of the ſummons, ſo I omit both bill and ſummons of recent ſpuilzie here, *brevitatis cauſa*; only, whereas the former is on twenty-one days, this is to be on fifteen days; and after *according to juſtice*, add theſe words in this ſummons, *to be called ſummarily on fifteen days warning*, (becauſe the ſaid action being purſued recently, and within the time prefixed by the law, is privileged of its own nature, and ſo merits ſummar proceſs,) *conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, and Our ſaid Lords of council and ſeſſion their deliverance granted thereanent*; and then ſay, *as ye will anſwer to Us thereupon*. And, becauſe this ſummons has a bill, which muſt be the date thereof, add *Ex deliberatione Dominorum Concilii*.

Nota, In the bill you muſt ſay, *and your Lordſhips deliverance to be granted thereanent*; for till the bill paſs, it is not granted, and when paſſed, the ſummons holds right *ut ſupra*, the ſummons being ſubſequent to the bill.

SUMMONS *of Aliment to an Heir.*

GEORGE, *&c.* To—— Our ſheriffs in that part, and meſſengers *reſpectivè*, *&c.* Whereas it is humbly meant and ſhown to us by A. B. ſon and heir to the deceaſed A. B. of —— That where, by the laws and daily practique of this Our realm, where the heir has not a ſufficient and competent livelihood, by reaſon the eſtate is exhauſted by liferents and debts affecting the ſame, there is an aliment allowed to the heir from off theſe jointers and liferenters, whereby the heir may not live under neceſſities, want the ordinary means of education and breeding, or be forced to contract debt at extraordinary diſadvantages, to the ruin both of himſelf, his fortune, and eſtate in fine, as the ſad conſequence where the eſtate is over-burdened with liferents and debts as ſaid is, eſpecially where the heir has not *aliunde* whereupon to live, and be educated; and which aliment, after due conſideration had of the fortune, liferents, and debts, is ever in uſe to be modified by Our Lords of council and ſeſſion: *And true it is*, That the purſuer's fortune, amounting to —— chalders victual, and —— ſilver rent yearly, beſides cuſtoms and caſualties, and over and above the manor-place, office-houſes, parks, yards, and ſervices, which in due eſtimation is worth —— a year, is either liferented, or by the annualrents of the debts reſting to lawful creditors of the defunct, exhauſted, or very near, in ſo far as C. D. the purſuer's mother liferents ——— thereof, and H. F. the purſuer's grandmother liferents ——— of the ſame,

ſame, and the annualrents of the debts reſting on the eſtate, amount to ------- conform to a particular account thereof apart (here holden as for expreſſed *brevitatis cauſa*;) and beſides, the ſaid liferenters, by virtue of their rights and infeftments, poſſeſs the haill houſes, parks, and yards, with the cuſtoms and ſervices of what ſo liferented; ſo that the annualrents due to the creditors, as ſaid is, being deduced, with the ceſs, and other public burdens, and miniſters ſtipends, whereof the purſuer has no benefit, there only remains of the whole rent but -------, which is not ſufficient to aliment, beſides to educate, the purſuer according to his degree and quality: *And albeit it be of verity*, That by the law of God and nature, and laws and daily practique of this Our realm, the ſaid liferenters are obliged to allow to the purſuer a competency for his aliment and education, effeiring to what liferented, and his degree and quality, and cannot be left deſtitute, and expoſed to neceſſities and want; and that he has oft and divers times deſired and required them to grant him the ſaid competent allowance yearly ſince the deceaſe of his ſaid father, which was upon the ------ day of ------ 17--- years, and yearly and termly in time coming, by equal portions, and in manner under written: *Nevertheleſs*, they wrongouſly refuſed, and as yet refuſe, poſtpone, and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. D. and H. F. lifeſenters above ſpecified, perſonally, or at their dwelling places, on twenty-one days warning (6), to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter; *That is to ſay*, the ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the purſuer his eſtate derived to him by his ſaid deceaſed father and grandfather, amounts in yearly rent to the ſaid ------ of victual, and ——— of ſilver-rent, attour cuſtoms and ſervices, and that the ſaid manor-places, office-houſes, parks, and yards are worth ——— yearly, and that the ſaid C. D. liferents thereof ———, and that the ſaid H. F. liferents of the ſame ———, and that the annualrents of the ſums due to the creditors amounts to ———, conform to the ſaid particular accompt thereof (here alſo holden as repeated *brevitatis cauſa*); and that thereby, and by the ceſs, and other public burdens, and miniſters ſtipends, there only remains to the purſuer of free rent ------, which is not a competency for his aliment and education, and ſuitable to his degree and quality; and the ſame being ſo found and declared, the ſaid defenders to hear and ſee a competency modified by Our ſaid Lords to the purſuer, for his ſaid aliment and education, and to hear and ſee themſelves decerned and ordained, by decreet foreſaid, to make payment to the ſaid purſuer thereof, each of them for their own parts, according as they liferent, or as it ſhall ſeem good to the ſaid Lords to proportion and divide the ſame, and that yearly ſince his ſaid father's deceaſe, and ſicklike yearly and termly in time coming by equal portions, during their reſpective lifetimes, or to grant particular localities to him in the eſtate for payment thereof, and as the ſaid Lords ſhall judge fit, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and

find,

find, decern, and declare in manner foresaid (*Insert a second diet, and then conclude with*) According to justice, as ye will answer, *&c.*

Nota, If the liferenters be married, ye must libel and conclude, all alongst, against the husbands, who also must be convened for their interest. 2. If any persons, creditors of the liferenters, or their husbands, donatars to their escheats, or any having right from them, be either in possession or known, it is fit they be called for their interest, either particularly, or thus in general, *viz. and all others having or pretending to have interest in the said matter, by open proclamation at the market-cross of ——, and other places needful*, (which place in the summons after the will at this (6) figure.) 3. I have seen these summonses privileged by bill on six days, thus, *to be called summarily on six days warning*, (because the foresaid action being for aliment, is privileged of its own nature, and so merits summar process,) conform to the Lords their daily practique and order used and observed in the like cases, and their deliverance granted thereanent. But as to this, since the Lords by an act of sederunt in my Lord Stair's time, to shun confusion, have determined what summonses may be privileged, and what not, and whether by bill or not; it is fit each clerk to the signet have a double of the said act, and I remit you to it, for thereby the Lords thought fit, and justly, to appoint several summonses that formerly were on twenty-one days, to be afterwards on six, and some that were on six, but few, to be on twenty-one days, and not fit to be transgressed, lest it cast the client's summons, if not give offence.

SUMMONS *at the Instance of a Minor, before the Exchequer, for Election of Tutors-dative, conform to an Act made in Exchequer thereanent, and passes the Signet.*

GEORGE, *&c.* To —— Our sheriffs in that part, conjunctly and severally, *&c.* Whereas it is humbly meant and shown to Us by A. B. *&c.* lawful children to the deceased C. D. of ------ That where the said pursuers their father died in the month of ------ 17--- years, without making testament, at least without nominating and leaving tutors to his said children, albeit all of them within the years of pupillarity; and seeing they are resolved to make application to Us, and Our lords of treasury and exchequer, in order to a tutory, in favours of some of their friends and relations, in whom they repose most confidence, for management and gubernation of their estates, both real and personal, and which gift cannot be granted without two of the nearest of kin on the father's side, and as many on the mother's side, be called and convened in the matter before the Lords of Our said treasury and exchequer, conform to a particular act made thereanent in Our said exchequer; and therefore, necessary it is for the said pursuers to have these Our summonses directed at their instance against the said nearest of kin, in manner, and to the effect after specified, conform to the said act of exchequer, in all points, as is alledged. *Our will is therefore*, and We charge you, that ye lawfully summon, warn, and charge —— two of the nearest of kin to the said pursuers on the father's side, and —— two of the nearest of kin to them on the mother's side, personally, or at their dwelling places, on twenty-one days warning, to compear before Our Lords of treasury and exchequer at Edinburgh, or where it shall happen them to be for the time, the —— day of ——, if it be lawful,

lawful, and, failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuers in the ſaid matter. *That is to ſay*, The ſaid defenders to hear and ſee tutors dative, one or more, nominated and given by Us, as *communis pater*, by virtue of Our prerogative, and by Our ſaid Lords, in Our name, to the purſuers, for management and gubernation of their eſtates, real and perſonal, during the haill time and ſpace of their pupillarity, and a gift paſſed in exchequer, and caution received for faithful adminiſtration, and thereafter expede the regiſter and quarter ſeal, conform to the laws of the kingdom in that caſe provided, and daily practique thereof in all points; or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, We and Our ſaid Lords will proceed in the ſaid matter, and paſs a gift of tutory in favours of ſome other perſon, to the effect above ſpecified. According to juſtice, as ye will anſwer, *&c.* *(Needs no bill.)*

SUMMONS *at the Inſtance of a Minor after his years of Pupillarity, for Election of Curators.*

GEORGE, *&c.* To —— Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to us by A. B. of ——, eldeſt lawful ſon and apparent heir to the deceaſed A. B. of ——, That where the ſaid purſuer is now paſt the years of his pupillarity, ſo that it is very neceſſary and convenient for him to chuſe his curators, for management and government of his eſtate real and perſonal, and by whom he may be alſo adviſed in relation to his future education, and until the years of his majority: Wherefore, neceſſary it is for the ſaid purſuer, to have ſummons directed at his inſtance, againſt two of the neareſt of kin on his father's ſide, and as many on his mother's ſide, in manner, and to the effect after ſpecified, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge ——, two of the neareſt of kin to the ſaid purſuer on the father's ſide, and —— two of the neareſt of kin to him on the mother's ſide, perſonally, or at their dwelling places, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, the ſaid defenders to hear and ſee curators nominated and given to him by the ſaid Lords, for management and government of his lands and eſtate, real and perſonal, and towards his better education and breeding, ay and while his full and perfect age of twenty-one years complete, conform to the laws and daily practique of this Our realm, in all points, or elſe, *&c.* With certification to them, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and authoriſe ſuch curators as ſhall be nominated by the purſuer to the effect foreſaid: According to juſtice, as ye will anſwer, *&c.*

Nota, Few or none chuſe curators before the Lords, except it be perſons of quality, but do the ſame before ſheriffs, commiſſaries, or baillies of boroughs, regalities and ſtewartries.

SUMMONS

SUMMONS *at the Inſtance of a Perſon after his Majority, againſt his Tutors and Curators, as to their Intromiſſions and Adminiſtrations, Omiſſions and Commiſſions.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. of —— That where C. D. J. M. W. C. and L. F. after A. B. of —— father to the purſuer his deceaſe, and who deceaſed in the month of —— 17— years, became tutors-dative to the purſuer, conform to a giſt of tutory granted to them thereupon by Us, with conſent of the Lords of Our treaſury and exchequer of this Our ancient kingdom, expede Our quarter ſeal, of the date the —— day of —— 17— years; and, the time of the granting thereof, they found P. F. of —— cautioner for them, as to their faithful adminiſtration in the ſaid office, during the years of the purſuer's pupillarity, and making compt, reckoning and payment to him of all their intromiſſions with his eſtate real and perſonal, and other goods and gear pertaining and belonging, or that ſhould happen to appertain and belong to him, by and through the deceaſe of his ſaid father, or any other manner of way, in manner more fully rehearſed in the bond, or act of caution ſubſcribed by them thereanent, of the date the —— day of —— 17— years foreſaid, and thereby not only procured the ſaid gift, but likewiſe accepted in and upon them the ſaid office of tutory, and in like manner behaved themſelves as tutors, by ſetting tacks, uplifting rents, granting diſcharges, and doing ſeveral other deeds, properly belonging to the office of tutory; as alſo, after elapſing of the purſuer's years of pupillarity, he, through the entire confidence he repoſed in them, elected and choſed the forenamed perſons for his curators; and they compearing perſonally in judgment before the ſheriff of —— accepted likewiſe of the ſaid office of curatory, and found the ſaid P. F. of —— (who was formerly cautioner in the ſaid tutory,) to be likewiſe cautioner for them in the ſaid curatory, as to their faithful adminiſtration therein, and for making compt, reckoning and payment to him of all their intromiſſions with his ſaid eſtate real and perſonal, and other goods and gear pertaining and belonging, or that ſhould happen to appertain and belong to him, by and through the deceaſe of his ſaid father, or any other manner of way, in manner more fully ſpecified in the act of curatory made thereanent before the ſaid ſheriff, and bond and act of caution ſubſcribed thereanent, dated the —— day of —— and ſo continued in the ſaid truſt, until the purſuer's majority, and full and perfect age of twenty-one years complete, which was upon the —— day of —— laſt bypaſt: *And true it is*, That the forenamed perſons, during the time of the ſaid tutory and curatory, did meddle, intromit with and uplift of the means and eſtate of the ſaid purſuer, either left to him by his ſaid deceaſed father, the time foreſaid of his deceaſe, or that accreſced ſince to the purſuer, by his eſtate or otherwiſe, the goods, gear, debts, ſums of money, jewels, gold, ſilver, coined and uncoined, heirſhip, goods, rents of lands, annualrents, teinds, and others after ſpecified, of the avails, quantities, eſtimations

ſtimations and prices after mentioned, from the perſons, and at the time under written, *viz.* (*leave blank for two ſheets of paper, and then ſay*) at leaſt, they ought and ſhould have uſed exact and timeous diligence therefor, whereby the ſame might have been made effectual, and all (as well that which did not carry annualrent after the time limited and appointed by the act after ſpecified, as that which carried annualrent) employed for the uſe, utility and profit of the purſuer their pupil, conform to the truſt repoſed in them by the ſaid tutory and curatory, and act of parliament made anent tutors and curators, and their adminiſtration in their offices, and wherein they have been moſt deficient, as is moſt clear and apparent, by a particular rental or liſt apart, here holden as for expreſſed *brevitatis cauſa*; and which haill goods, gear, debts, ſums of money, rents, annualrents, jewels, gold, ſilver, and others above ſpecified, with the intereſt of ſuch debts as carried annualrent, and intereſt of ſuch particulars as ought to have been employed upon annualrent, after the time prefixed by the ſaid act of parliament, extend, in the haill, at the term of —— laſt bypaſt, (being the term immediately antecedent to his ſaid majority) to the ſum of —— uſual money of this realm: *And albeit it be of verity*, that the ſaid purſuer has oft and divers times deſired and required the ſaid tutors and curators, and their ſaid cautioner, for their adminiſtration in the ſaid offices, conjunctly and ſeverally to have made payment to him of the ſaid ſum of —— money foreſaid, with the annualrent thereof, ſince the ſaid term of —— laſt bypaſt, and yearly and termly in time coming during the not-payment of the ſame, after the form and tenor of the ſaid gift of tutory, act of curatory, bond or act of caution found in the ſaid matter, laws and daily practique of this kingdom, uſed and obſerved in the like caſes: Nevertheleſs, *&c. Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid defenders, tutors, curators, and cautioner foreſaid, perſonally, or at their dwelling-places, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, to hear and ſee themſelves decerned and ordained, conjunctly and ſeverally, by decreet of the ſaid Lords, to make payment to the ſaid purſuer of the foreſaid ſum of —— money foreſaid, due to him as ſaid is, with the annualrent thereof ſince the ſaid term of —— laſt bypaſt, and yearly and termly in time coming during the not-payment of the ſame, after the form and tenor of the ſaid gift of tutory, act of curatory, bond or act of caution found in the ſaid matter, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders if they fail, the ſaid Lords will proceed in the ſaid matter, and decern therein in manner foreſaid. According to juſtice, as ye will anſwer, *&c.*

(*Needs no bill.*)

SUMMONS *of Reduction, at the Inſtance of a Creditor upon the Act of Parliament* 1621, *againſt the Perſon in whoſe favours his Debitor diſponed his Eſtate fraudulently.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge C. D. of —— to whom, and in whoſe favours the pretended diſpoſitions, charters, aſſignations to bonds and others after ſpecified, are alledged made and granted, in manner after mentioned; and A. B. of —— alledged maker and granter of the ſaid rights, for his intereſt, perſonally, *&c.* on twenty-one days warning, and all others having or pretending to have intereſt in the matter under written, by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of J. M. of —— lawful creditor to the ſaid A. B. of —— in ſo far as (*here inſert the grounds of the debt curtly, and if any execution be regiſtered, horning, charge, appriſing, or adjudication followed, let the ſame be mentioned, and then ſay,*) to whoſe great hurt and prejudice, as lawful creditor foreſaid, the ſaid pretended rights and infeftments were granted by the ſaid A. B. in favours of the ſaid C. D. the ſaid A. B. being then *in meditatione fugæ*, and his credit and condition called in queſtion, at leaſt without an adequate onerous cauſe, if not to the ſaid C. D. as his confident, and ſo quite contrary, and merely repugnant to the act of parliament made *in anno* 1621, againſt bankrupts and fraudulent diſpoſitions, made to the hurt and prejudice of lawful creditors; and thereby the purſuer having ſufficient, good and undoubted right and intereſt to call for exhibition and production of the ſaid pretended rights, and to proſecute, follow forth, and purſue the action of reduction of the ſame after ſpecified, in manner after expreſſed: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before the ſaid Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, the writs and evidents following, *viz.* (*leave blank for half a ſheet, and then ſay*) of the dates, tenors, and contents above ſpecified, or of whatſoever other dates, tenors or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, retreated, reſcinded, caſſed, annulled, decerned and declared, by their decreet, to have been from the beginning, to be now, and in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or that may follow on the ſame, for the reaſons and cauſes following, *viz.* (*here leave blank for the reaſons, and then ſay*) and therefore, the foreſaid pretended diſpoſitions, charters, aſſignations to bonds and others above ſpecified, (called for to be produced and reduced, as ſaid is,) of the dates, tenors and contents above mentioned, or of whatſoever other dates, tenors or contents the ſame be of, ought and ſhould be reduced, retreated, reſcinded, caſſed, annulled, decerned and declared, by decreet of the ſaid Lords, to have been from the beginning, to be now, and in all time coming, null, and of no avail, force, ſtrength nor effect, with all that has followed,

ed, or that may follow thereupon, for the reaſons and cauſes foreſaid, and others, or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and reduce, decern and declare, in manner foreſaid; (*Inſert a ſecond diet, and then ſay*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of Reduction and Declarator* ex condictione indebiti.

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge A. B. of —— to whom, and in whoſe favours, the bond and heritable ſecurity after ſpecified is made and granted, and whereupon infeftment followed, in manner after mentioned, perſonally, or at his dwelling-place, on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of C. D. of —— by whom, and to whoſe great hurt and prejudice the foreſaid bond and heritable ſecurity was made and granted, upon ſuppoſition, that the debt for which it was granted was really reſting by the deceaſed U. D. of —— his father, whereas the contrary is now evident, by antecedent diſcharges of the debt granted to his ſaid deceaſed father, and thereby having ſufficient, good and undoubted right and intereſt to call for exhibition and production thereof, and to proſecute, follow forth, and purſue the action of reduction and declarator after mentioned, *ex condictione indebiti*, in manner after expreſſed: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before the ſaid Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, the foreſaid bond, (*here leave blank for half a ſheet, and then ſay*) with the charter and ſaſine following thereupon, of the date, tenor and contents above ſpecified, or of whatſoever other date, tenor or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, (6) retreated, reſcinded, caſſed, annulled, decerned and declared, by their decreet, to have been from the beginning, to be now, and in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or that may follow thereupon, for the reaſons and cauſes following: *To wit*, (*here leave blank for the reaſons,*) as alſo to hear and ſee the ſaid bond and heritable ſecurity, with the infeftment following thereupon, declared by the ſaid Lords to be extinguiſhed and ſuppreſſed, as if the ſame had never been made nor granted; and the defender alſo decerned and ordained to renounce and diſcharge the ſame in ample form, with procuratory of reſignation *ad remanentiam*, and all other clauſes needful, and to deliver up to the ſaid purſuer the ſaid bond and heritable ſecurity, charter and ſaſine, to be cancelled and deſtroyed; (7) and therefore, the ſaid pretended bond and heritable ſecurity, with the charter and ſaſine following thereupon, of the date, tenor and contents above ſpecified, or of whatſoever other date, tenor or contents the ſame be of, ought and ſhould be reduced, (*here take in from the* (6)

figure to the (7) *figure, with this alteration, for the words* to hear and see, *write*, ought and ſhould, *and then ſay*) conform to the laws and daily practique of this realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and reduce, decern and declare, in manner foreſaid. According to juſtice, as ye will anſwer, *&c.*

Nota, I ſee no cauſe why this ſummons ſhould contain a ſecond diet, if the ſecurity brought in queſtion be corroborated, and not ſimple; becauſe, in that caſe, *clare conſtat de ſe*, and the diſcharge being produced that was granted to the father, makes the payment to appear *ſcripto*: But if the ſecurity be ſimple, it is fit to inſert a ſecond diet, even albeit the diſcharge granted to the defender, and the ſimple ſecurity, be of the ſame date, and before the ſame witneſſes.

SUMMONS *of Reduction of an Interdiction, at the Inſtance of the Perſon interdicted.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpective*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn, and charge C. D. of ——, A. B. of ——, and ——, to whom, and in whoſe favours the interdiction after ſpecified was made, granted, and ſubſcribed, and letters of inhibition and publication raiſed and executed thereupon at their inſtance, and regiſtered in manner after mentioned, perſonally, or at their dwelling places, on twenty-one days warning, and all others having or pretending to have intereſt, *&c.* to compear, *&c.* to anſwer at the inſtance of Mr. J. H. of ——, by whom the foreſaid interdiction was ſubſcribed and delivered to the ſaid defenders, to prevent and guard againſt his contracting of debt, becoming ſurety for perſons, or dilapidating of his eſtate otherwiſe, and to which, at the time, he might have been induced through the paucity of his years, and facility and weakneſs of his nature; but now being of the years of ——, and of greater experience of the world, and known by many demonſtrations, evident proofs, and undeniable teſtimonies of his frugality and virtue, that he is *rei ſuæ providus*, and thereby in capacity to manage his own eſtate and affairs to advantage, without any ſuch interdiction or awe-band over his head, which, as he is now ſtated and circumſtated, proves a great diſparagement and diſhonour to him, none being free to deal with him in the leaſt and meaneſt tranſactions, without conſent of the defenders, to whom he is interdicted in manner foreſaid; and thereby, and for redintegration and continuance of the purſuer's honour and intereſt, having ſufficient good and undoubted right and intereſt to call for exhibition and production of the ſaid interdiction and letters of publication thereof, and executions of the ſame, and to proſecute, follow forth, and purſue the action of reduction thereof after ſpecified, in manner after expreſſed: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce

duce before the ſaid Lords, the ſaid day and place, in the hour of cauſe, with continuation of days *(here leave blank for half a ſheet to fill up the production, and then ſay)*, of the dates, tenors, and contents above ſpecified, or of whatſomever other dates, tenors, or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame (6) reduced, retreated, reſcinded, caſſed, annulled, decerned, and declared by their decreet, to have been from the beginning, at leaſt to be now and in all time coming, as to all ſubſequent deeds, null, and of none avail, force, ſtrength, nor effect, with all that has followed, or that may follow on the ſame, and the ſaid purſurer reſtored *in integrum* againſt the ſame, (7) for the reaſons and cauſes following, *viz.* *(here leave blank for the reaſons, and then ſay)* and therefore, the foreſaid interdiction, decreet interponed thereto, letters of publication raiſed thereupon, executions and regiſtration thereof, of the dates, tenors, and contents above ſpecified, or of whatſoever other dates, tenors, or contents the ſame be of, ought and ſhould be reduced, *(here take in from the* (6) *figure to the* (7), *and then ſay)* for the reaſons and cauſes foreſaid and others, or elſe to alledge, *&c.* With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and reduce, decern, find, declare, and reſtore in manner foreſaid: According to juſtice, as ye will anſwer, *&c.*

Nota, Ye may inſert a ſecond diet, albeit I think the Lords, before they looſe the interdiction, will have a greater eye to the purſuer's frugality and virtue, which they will have evidently proven, than by any conceſſion of the friends, or their being holden as confeſſed upon the point, ſhould it be referred to their oaths; and if the interdictors diſcharge voluntarily, it prevents the trouble of this ſummons.

SUMMONS *of Reduction of an Appriſing and Executions thereof*, &c. *either upon Nullities, or Payment made of Whole or Part, before the leading; concluding alſo a Declarator for extinguiſhing thereof, as paid by Intromiſſions.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpective*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn, and charge A. B. of ——, (at whoſe inſtance the lands, and others after ſpecified, were moſt wrongouſly, illegally, and diſorderly denounced to be appriſed for ſums more than were due, and the appriſing after mentioned accordingly led and deduced, and charters and infeftments thereupon purchaſed and expede) and —— meſſenger, executor of the letters of appriſing, and denouncer of the ſaid lands, and —— meſſenger, judge in the ſaid appriſing, —— perſons of inqueſt who paſſed thereupon, —— clerk thereto, —— clerk to the bills, recorder thereof, and —— ſuperior of the ſaid lands, and granter of the ſaid charter, —— notary, giver of of the ſaſine thereon, perſonally, or at their dwelling places, on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of C. D. of ——, to whoſe great hurt and prejudice the ſaid lands and eſtate were wrongouſly

wrongouſly denounced to be appriſed for ſums more than were due, and the appriſing accordingly led and deduced, and charters and infeftments thereupon expede, at leaſt, that the defender, by virtue thereof, continues in poſſeſſion, albeit more than paid by intromiſſion and otherways, in manner under written; and thereby having ſufficient, good, and undoubted right and intereſt, to call for exhibition and production thereof, and grounds and warrants of the ſame, and to proſecute, follow forth, and purſue the action of reduction, declarator, and others after ſpecified, in manner after mentioned; *That is to ſay*, The ſaid defenders to bring with them, exhibit, and produce before Our ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, (*leave a blank for the production*,) of the dates, tenors, and contents above written, or of whatſoever other dates, tenors, or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, retreated, reſcinded, caſſed, annulled, decerned and declared by their decreet, to have been from the beginning, to be now and in all time coming, null and of none avail, force, ſtrength nor effect, with all that has followed, or that may follow thereupon, for the reaſons and cauſes following, (*leave a ſheet blank for the reaſons, and then ſay,*) at leaſt to hear and ſee it found and declared, that the foreſaid appriſing is more than ſatisfied, by the ſum of ——, by the defender's intromiſſions with the rents and duties of the lands and others appriſed, and otherways, or that the lands were worth, and paid no leſs the time of his entry to the poſſeſſion, (and with which he either intromitted, or ought and ſhould have intromitted, having by his poſſeſſion excluded the purſuer as heritor therefrom) and that conform to a particular rental and accompt thereof apart (here holden as repeated and for expreſſed *brevitatis cauſa*,) and that therethrough the ſaid appriſing and infeftment are not only ſuppreſſed and extinguiſhed, but alſo, that the ſaid defender is liable to the purſuer in the ſaid ſum of ——, with which he either intromitted, or ſhould have intromitted, as ſaid is, and as the true *ſuperplus* and balance of account, over and above, and attour what due by virtue of the ſaid appriſing and infeftment in manner foreſaid; and the ſame being ſo found and declared, the ſaid defender to hear and ſee himſelf decerned and ordained by decreet foreſaid, not only to renounce, overgive, and diſcharge his ſaid appriſing and infeftments thereon, *omni habili modo*, and with abſolute warrandice, and all other clauſes needful in favours of the ſaid purſuer, his heirs and aſſignees, and to deliver up to them the ſaid appriſing, with the grounds and infeftments expede thereupon, to be diſpoſed of at pleaſure, but alſo to enter the ſaid purſuer and his foreſaids to the peaceable poſſeſſion of the ſaid lands and others foreſaid, and make payment to them of the ſaid ſum of —— due attour their own payment as ſaid is, with the annualrent thereof ſince the term of ——, at which time the ſaid appriſing was extinguiſhed by payment in manner foreſaid, and in time coming during the not-payment; and alſo, the ſaid defender (for the better adjuſting of the ſaid accompt and what elſe relates thereto) to hear and ſee auditors nominated and appointed by the ſaid Lords, according to the order uſed and obſerved in the like caſes; and therefore, the ſaid defender's appriſing, grounds and warrants

rants thereof, and infeftments following thereupon, of the dates, tenors, and contents above ſpecified, (or of whatſomever other dates, tenors, or contents the ſame be of,) ought and ſhould be reduced, retreated, reſcinded, caſſed, annulled, decerned, and declared, by decreet of the ſaid Lords, to have been from the beginning, to be now, and in all time coming, null, and of none avail, force, ſtrength, nor effect, with all that has followed, or that may follow thereupon, for the reaſons and cauſes foreſaid, and others; at leaſt, it ought and ſhould be found and declared, that the foreſaid appriſing is more than ſatisfied, yea, by the ſaid ſum of ——, by the defender's intromiſſions with the rents and duties of the ſaid lands, and others above appriſed, or otherwiſe, or that the lands were worth, and paid no leſs the time of his entry to the poſſeſſion, and with which he either intromitted, or ought and ſhould have intromitted (having by his poſſeſſion excluded the purſuer as heritor therefrom), and that conform to the ſaid particular rental and accompt thereof a-part, here holden as repeated and for expreſſed *brevitatis cauſa*, as ſaid is; and that therethrough the ſaid appriſing and infeftments are not only ſuppreſſed and extinguiſhed, but alſo that the defender is liable to the purſuer, in the ſaid ſum of ——, with which he either intromitted, or ſhould have intromitted, as ſaid is, and as the true ſuperplus and balance of accompt over and above, and attour what due by virtue of the ſaid appriſing and infeftment in manner foreſaid; and the ſame being ſo found and declared, the ſaid defender ought and ſhould be decerned and ordained, by decreet foreſaid, not only to renounce, overgive, and diſcharge his ſaid appriſing and infeftment thereon, *omni habili modo*, and with abſolute warrandice, and all other clauſes needful in favours of the ſaid purſuer and his foreſaids, and to deliver up to them the ſaid appriſing, with the grounds and infeftments expede thereon, to be diſpoſed of at pleaſure, but alſo to enter them to the peaceable poſſeſſion of the ſaid lands, and others foreſaid, and make payment to them of the ſaid ſum of ——, due attour their own payment, as ſaid is, with annualrent thereof ſince the ſaid term of ——, at which time the ſaid appriſing was extinguiſhed by payment in manner foreſaid, and in time coming during the not-payment; and for the better adjuſting of the ſaid accompts, and what elſe relates thereto, auditors ought and ſhould be nominated and appointed by the ſaid Lords, according to the order uſed and obſerved in the like caſes, or elſe, *&c.* With certification, *&c.* the ſaid Lords will proceed in the ſaid matter, and reduce, find, decern and declare in manner foreſaid, (*To conclude with a ſecond diet.—Needs no bill.*)

SUMMONS *of Ingreſs to Lands diſponed in Real Warrandice of other Lands principally diſponed and evicted.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to us by A. B. of ——, that where C. D. of ——, by his right and diſpoſition, of the date the —— day of

of —— 17— years, (for the onerous cauſes therein ſpecified,) ſold, annalzied, and diſponed to the ſaid purſuer, his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill the lands and others after ſpecified, *viz.* (*inſert them as in the diſpoſition*) lying within the pariſh of ——, and ſheriffdom of ——, and that as for the principal, and all and haill the lands and others after mentioned, *viz.* (*here inſert the warrandice lands alſo, as in the diſpoſition,*) lying within the pariſh of ——, and ſheriffdom of ——, and that in real warrandice, and ſpecial ſecurity of the lands and others principally above diſponed, with the pertinents, ſo that if it ſhould happen the ſaid purſuer, or his foreſaids, to be diſquieted in the peaceable poſſeſſion, bruiking and enjoying of the ſaid principal land, or any part or portion thereof, and the ſame to be evicted from them; then, and in that caſe, the ſaid purſuer and his foreſaids, ſhould have full and free regreſs, ingreſs, and acceſs in and to the ſaid lands, and others above ſpecified, diſponed in real warrandice, as ſaid is, or any part or portion thereof, and readieſt mails, farms, kains, cuſtoms, caſualties, profits, and duties of the ſame, at leaſt in and to ſo much thereof, as ſhould effeir and correſpond in quantity, quality, and yearly duty to the eviction; and the ſaid C. D. bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid purſuer and his foreſaids, heritably and irredeemably, and as principal and real warrandice *reſpective* therein, and that by double infeftments and manner of holdings, to be holden, and with abſolute warrandice, in manner ſpecified in the ſaid diſpoſition; conform whereunto, procuratory of reſignation therein contained, reſignation and charter following thereupon, under Our great ſeal, containing precept of ſaſine, dated the —— day of —— 17— years, the ſaid purſuer was, upon the —— day of —— thereafter, lawfully infeft in the ſaid lands and others above diſponed, with the pertinents, both principal and warrandice, as the ſaid diſpoſition, charter and ſaſine, duly regiſtered, conform to the act of parliament, in themſelves more fully proport: *And true it is*, after the ſaid purſuer had acquired the ſaid right, there was an action commenced againſt the ſaid lands principally above diſponed, and tenants and poſſeſſors thereof, and likewiſe againſt the ſaid purſuer, at the inſtance of H. D. of ——, before Our Lords of council and ſeſſion, touching, (*here inſert the concluſion of H. D. of —— his ſummons, whether mails and duties, removing, reduction, or otherways*), at leaſt, the purſuer's tenants being convened, the purſuer not only intimated the diſtreſs to the ſaid C. D. in due time, and before *litis conteſtation* in the cauſe, as inſtruments taken thereupon, in the hands of —— notary-public, more fully bears, but alſo, the time of the calling of the ſaid action, (6) he compeared by his advocates, and proponed all the defences that he knew were competent againſt the ſame; and yet notwithſtanding, the ſaid Lords, by their decreet then given and pronounced by them in the ſaid matter, upon the —— day of —— 17— years, (*here inſert the words of the decerniture and eviction*) as the ſaid decreet in itſelf alſo more fully bears; and which lands and others foreſaid, ſo evicted as ſaid is, amount in yearly free rent to — chalders wheat, — chalders bear, — chalder oat-meal, — chalder oats, and — chalder rye and peaſe, and to — ſilver-rent, attour — wedders, and —

hens

hens and capons, and beſides all ſervices preſtable by any other lands, and tenants and poſſeſſors thereof, to the heritor and maſter: Wherethrough, in all law, equity, and juſtice, and conform to the nature and tenor of the ſaid (7) real warrandice, the ſaid purſuer ought and ſhould have full and free ingreſs and acceſs in and to the ſaid warrandice lands, at leaſt ſo much thereof as may correſpond, and be effeiring in quantity, quality, and yearly duty to the ſaid eviction; and for that effect, the ſaid C. D. ought and ſhould enter him to the real, actual and peaceable poſſeſſion thereof, ſetting and raiſing of tenants, and intromiſſion with the mails, farms, kains, cuſtoms, caſualties, profits, and duties of the ſame, of the crop and year of God 17— years, being the firſt crop and year of the ſaid eviction, and yearly ſinceſyne, and in all time coming, at leaſt, ay and while the ſaid eviction be purged, and that the ſaid purſuer and his foreſaids be reſtored, reponed, and retroceſſed to the right and poſſeſſion of the lands, and others principally above diſponed, with the pertinents, and evicted from him in manner foreſaid: *And albeit it be of verity*, that the foreſaid eviction has taken effect, and that what evicted amounts in yearly free rent, to the particular quantity and quality above ſpecified, and of the crop above mentioned, and that the ſaid purſuer, in reſpect thereof, has oft and divers times deſired and required the ſaid defender, to enter him to the actual, real, and peaceable poſſeſſion of the ſaid (8) warrandice lands, at leaſt ſo much thereof as may correſpond to the ſaid eviction, and to the ſetting and raiſing of tenants, and intromiſſion with the mails, profits and duties, cuſtoms and ſervices of the ſame after ſpecified, yearly, the crops and years after mentioned, and likewiſe deſired and required the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaid warrandice lands, to have made payment to him of the haill mails, farms, kains, cuſtoms, caſualties, profits, and duties of the lands and others above and after ſpecified, diſponed in real warrandice, as ſaid is, and that of the ſaid crop and year of God 17— years, being the firſt year of the ſaid eviction, and ſicklike yearly ſinceſyne, or of the avails, eſtimations, and prices of the ſame after mentioned, each one of them for their own parts, and according to their ſeveral proportions of the ſame, as is particularly after divided, *viz.* (*here leave blank for a ſheet of paper*) and in like manner, to make payment to the ſaid purſuer, of the like mails, farms, kains, cuſtoms, caſualties, profits, and duties, and uſual ſervices in time coming, at leaſt ſo much thereof as ſhall effeir and correſpond to the ſaid eviction, and ay and while the ſaid eviction be purged, and that the ſaid purſuer and his foreſaids, be reponed, reſtored, and retroceſſed to the right and poſſeſſion of the lands and others principally above diſponed, with the pertinents, and evicted from him in manner foreſaid, conform to the ſaid diſpoſition, infeftment following thereupon, nature and tenor of the ſaid real warrandice, and laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points: *Nevertheleſs*, they wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. D. of ——, heritor of the ſaid warrandice lands, and the ſaid (*leave blank for eight lines*) tenants and poſ-

ſeſſors of the ſame, perſonally, or at their dwelling-places, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, the ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid C. D. to hear and ſee himſelf decerned, by decreet of Our ſaid Lords of council and ſeſſion, to enter the ſaid purſuer to the actual, real, and peaceable poſſeſſion of the ſaid warrandice lands, at leaſt to ſo much thereof as may correſpond to the ſaid eviction, and to the ſetting and raiſing of tenants, and intromiſſion with the mails, farms, kains, cuſtoms, caſualties, profits, duties, and ſervices of the ſame, above and after ſpecified, yearly, the crops and years above and after mentioned; and in like manner, the forenamed perſons, tenants and poſſeſſors of the ſaid lands, and others foreſaid, diſponed in real warrandice, as ſaid is, to hear and ſee themſelves decerned by decreet foreſaid, to make payment to the ſaid purſuer of the haill mails, farms, kains, cuſtoms, caſualties, profits, and duties of the ſame, and uſual ſervices, of the ſaid crop and year of God 17— years, being the firſt crop and year of the eviction, and ſicklike yearly ſinceſyne, or of the avails, eſtimations, and prices of the ſame above written, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly above divided; and likewiſe, to make payment to him of the like mails, farms, kains, cuſtoms, caſualties, profits, and duties, with the uſual ſervices yearly in time coming, at leaſt ſo much thereof as ſhall effeir and correſpond to the ſaid eviction, and ay and while the ſaid eviction be purged, and that the ſaid purſuer and his foreſaids be reponed, reſtored, and retroceſſed to their own right and poſſeſſion of the lands and others principally above diſponed, with the pertinents, and evicted from him in manner foreſaid, after the form and tenor of the ſaid diſpoſition, infeftment following thereupon, nature and tenor of the ſaid real warrandice, and laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defender, if he fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid: (*Inſert a ſecond diet, and then conclude with*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of Regreſs to Lands diſponed by way of Permutation and Excambion, upon Eviction of the whole, or Part of one of the Intereſts diſponed.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as, it it is humbly meant and ſhown to Us by G. D. of —— That where, by contract made and paſſed betwixt the ſaid purſuer on the one part, and C. D. of —— on the other part, of the date the —— day of —— 17— years, the ſaid C. D. for the lands of —— and others thereby diſponed to him by the purſuer, ſold, annalzied and diſponed to the ſaid purſuer, his heirs and

and aſſignees whatſoever, heritably and irredeemably, all and haill the lands of —— lying within the pariſh of —— and ſheriffdom of —— and that in excambion and permutation of the ſaid other lands diſponed to him by the purſuer, as ſaid is, and bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid purſuer and his foreſaids therein, by double infeftments and manner of holdings, to be holden, and with abſolute warrandice, in manner therein expreſſed; and likewiſe conſtituted the ſaid purſuer and his foreſaids, his aſſignees, in and to the mails and duties of the ſaid lands, and others foreſaid, and in and to the tacks and rights of the teinds thereof, and that of the crop and year of God 17— years, and yearly thereafter in all time coming, and all action, purſuit and inſtance competent, or that might be competent thereupon for ever: And beſides the abſolute warrandice contained in the ſaid contract, it is thereby ſpecially and expreſly provided and declared, that in caſe any of the lands or teinds diſponed by the ſaid parties to one another, ſhould happen at any time thereafter to be evicted from them, that then, and in that caſe, it ſhould be lawful to, and in the power of that perſon from whom the lands diſponed ſhould happen to be evicted, to recur upon, and have full and free regreſs, ingreſs and acceſs to his own lands, and others ſo diſponed, at leaſt, ſo much thereof as ſhould effeir and correſpond, in quantity, quality, and yearly duty, to the eviction, and peaceably to poſſeſs, bruik and enjoy the ſame, and intromit with, uſe and diſpoſe upon the haill mails, farms, kains, cuſtoms, caſualties, profits and duties thereof, ſicklike, in the ſame manner, and as fully and freely in all reſpects, as if the ſaid excambion had never been made, and that *brevi manu* at his own hand, without any hazard of intruſion, or peril of ejection, to be ſuſtained or incurred therethrough, or neceſſity of declarator to follow thereupon; and with and under the which expreſs condition, proviſion and declaration, the foreſaid excambion was made, and the ſaid contract entered into, and no otherwiſe; and conform to the which contract, and precept of ſaſine therein contained, the ſaid purſuer was, upon the —— day of —— 17— years, lawfully infeft in the ſaid lands, and others foreſaid, diſponed to him by the ſaid C. D. as ſaid is, and with the recurrency above ſpecified, to the ſaid other lands diſponed by the purſuer to him in excambion thereof, in caſe of eviction, in manner above expreſſed, and accordingly confirmed by the ſuperior, conform to the charter granted thereanent, of the date the —— day of —— 17— years, as the ſaid contract of excambion, ſaſine following thereupon, and charter of confirmation thereof, in themſelves more fully proport: *And true it is*, That after the ſaid parties entered in the foreſaid contract, and that the ſaid purſuer was infeft, and confirmed in manner foreſaid, and accordingly in the actual poſſeſſion of the ſaid lands and others foreſaid, diſponed to him by the foreſaid contract, there was an action commenced againſt the ſaid lands and others foreſaid, ſo diſponed to him by the ſaid C. D. and tenants and poſſeſſors thereof, and againſt the ſaid purſuer, at the inſtance of H. D. of —— before the Lords of council and ſeſſion, touching (*here inſert the concluſion of the ſaid* H. D. *his ſummons, whether mails and duties, removing, reduction, or otherwiſe;*) at leaſt, the purſuer's tenants being

convened, the purſuer not only intimated the diſtreſs to the ſaid C. D. in due time, and before *litiſconteſtation* in the cauſe, as inſtrument taken thereupon in the hands of —— notary-public, bears, but alſo, the time of the calling of the ſaid action, (*here take in the ſtile of the former ſummons, from this figure of* (6) *till ye come to the* (7) *figure, and then ſay*, contract of excambion, *in place of the words*, real warrandice; *after which, continue the former ſtile, till ye come to the* (8) *figure, and then ſay*) of the ſaid lands and others above ſpecified, diſponed by the ſaid purſuer to him, in manner above mentioned, and in lieu and place of the lands evicted in manner foreſaid, at leaſt ſo much thereof as may effeir and correſpond to the ſaid eviction, and to the ſetting and raiſing of tenants, and intromiſſion with the mails, farms, kains, cuſtoms, caſualties, profits, duties and ſervices of the ſame after ſpecified, yearly, the crops and years after mentioned; and likewiſe deſired and required the perſons *reſpectivè* after named, tenants and poſſeſſors of the ſaid lands and others foreſaid, diſponed by the purſuer to the ſaid C. D. as ſaid is, in permutation and excambion, in manner foreſaid, to have made payment to him of the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame under written, of the ſaid crop and year of God 17— years, being the firſt year of the ſaid eviction, and ſicklike yearly ſinceſyne, or of the avails, eſtimations and prices of the ſame after ſpecified, each one of them for their own parts, and according to their ſeveral occupations and proportions thereof, as is particularly after divided, *viz.* (*here leave blank for a ſheet*) and in like manner, to make payment to the purſuer of the like mails, farms, kains, cuſtoms, caſualties, profits and duties, and uſual ſervices yearly in time coming, at leaſt ſo much thereof as will effeir and correſpond to the ſaid eviction, and ay and while the ſaid eviction be purged by the ſaid defender, and that the ſaid purſuer and his foreſaids be reponed, reſtored, and retroceſſed to the right and poſſeſſion of the ſaid lands and others above mentioned, with the pertinents, diſponed to them by the ſaid C. D. by virtue of the ſaid contract, and evicted from him in manner foreſaid, after the form and tenor of the ſaid contract, infeftment following thereupon, confirmation thereof by the ſuperior, nature and quality of the ſaid permutation and excambion, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points; nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid C. D. who diſponed to the ſaid purſuer the lands and others above evicted, and accepted of the right of the ſaid other lands, and others above ſpecified, in permutation and excambion thereof, and with the proviſion and quality of the ſaid recurrency thereto, in caſe of eviction, in manner above mentioned; and alſo, the ſaid (*leave blank for eight lines*) tenants, poſſeſſors, and occupiers thereof, perſonally, or at their dwelling-places, on twenty-one days warning, to compear before Our ſaid Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven,

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the ſaid C. D. to hear and ſee himſelf decerned, by decreet of the ſaid Lords, to enter the ſaid purſuer to the real, actual, and peaceable poſſeſſion of the ſaid lands and others foreſaid, diſponed by the purſuer to him, (in permutation and excambion of the ſaid lands and others, with the pertinents, diſponed by him to the purſuer, and now evicted from him, in manner foreſaid,) at leaſt, ſo much thereof as may effeir and correſpond to the ſaid eviction, and to the ſetting and raiſing of tenants, and to the intromiſſion with the mails, farms, kains, cuſtoms, caſualties, profits, duties and ſervices of the ſame above ſpecified, of the crops and years of God above mentioned: And in like manner, the forenamed perſons, tenants, poſſeſſors and occupiers of the ſaid lands and others foreſaid, ſo diſponed by the ſaid purſuer to the ſaid C. D. in excambion, as ſaid is, to hear and ſee themſelves decerned, by decreet foreſaid, to make payment to the ſaid purſuer, of the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame, with the uſual ſervices of the ſaid crop and year of God 17— years, being the firſt crop and year of the ſaid eviction,) and ſicklike yearly ſinceſyne, or of the avails, eſtimations and prices thereof above written, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly above divided; and in like manner, to make payment to him of the like mails, farms, kains, cuſtoms, caſualties, profits and duties, with all the uſual ſervices yearly in time coming, at leaſt, ſo much thereof as may effeir and correſpond to the ſaid eviction, and ay and while the ſaid eviction be purged by the ſaid defender, and that the ſaid purſuer and his foreſaids be reponed, reſtored and retroceſſed to his own right and poſſeſſion of the ſaid lands and others foreſaid, diſponed to him by the ſaid defender, and now evicted from him, as ſaid is, after the form and tenor of the ſaid contract, infeftment following thereupon, confirmation thereof by the ſuperior, nature and quality of the ſaid permutation and excambion, and laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.* (*to conclude the certification and ſecond diet as in the preceding ſummons; and then ſay,*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of Moleſtation and wrongous Intromiſſion.*

GEORGE, *&c.* To Our lovits -------- Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, That ye lawfully ſummon, warn and charge W. F. of ------ (*leave blank for more defenders, if any be*) perſonally, or at their dwelling-places, on twenty-one days warning, to compear (*as in the former ſummons, till ye come to*) to anſwer at the inſtance of G. D. of ——, and A. B. C. D. and G. H. in ——, his tenants, in manner following: *That is to ſay*, The ſaid defenders, for the wrongous, violent and maſterful coming by themſelves, their ſervants, accomplices, and others in their names, of their cauſing, ſending, hounding out, command, reſet and aſſiſtance to the ground of the lands of

of -------, then and now poſſeſſed by the purſuers, and that upon the ----- day of ------ 17--- years, or one or other of the days of the ſaid month, and there, in the wrongous, violent and maſterful troubling and moleſting the purſuers in the peaceable poſſeſſion of the ſaid lands, and intromitting with, and away-taking from the ſaid A. B. C. D. and G. H. the other purſuers, of the ground of the ſaid lands, and property or commonty thereof, and out of their houſes and ſheallings being thereupon, the particular goods, gear, horſe, nolt, ſheep, inſight, pleniſhing, furniture, and neceſſaries of labouring, corns, cattle, timber, deals, and others *reſpectivè* after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, *viz.* (*leave blank for a ſheet*) and which goods, gear, corns, cattle, and others above ſpecified, pertained to the ſaid A. B. C. D. and G. H. purſuers, and were then in their poſſeſſion as their own proper goods and gear, by uſing and diſpoſing thereupon, and doing and performing all deeds of right and poſſeſſion requiſite and neceſſary therewith at pleaſure, likeas the ſame were worth, and would have yielded, and given in value and eſtimation the particular rates and prices above mentioned, had not the ſame been wrongouſly intromitted with and away-taken by the ſaid defenders, by themſelves and their foreſaids, of their cauſing and command, as ſaid is, from the purſuers, but had been ſuffered and permitted by them to have remained with, and in the poſſeſſion of the ſaid purſuers as formerly; likeas, the ſaid defenders have wrongouſly detained and withholden the ſaid goods, gear, and others foreſaid, with the uſe thereof, and benefit of the ſame, from the ſaid purſuers ever ſince, now by the ſpace of ------, and thereby, and by the purſuers their being forced to buy other goods to labour their land, and for their other accommodation, damnified and prejudged them in the ſum of —— Scots money, conform to a particular accompt thereof apart, here holden as for expreſſed, and eſteemed as a part of this preſent libel, *brevitatis cauſa;* and therefore, the ſaid defenders to hear and ſee it found and declared, that they have done wrong in the ſaid moleſtation, and wrongous intromiſſion with, and away-taking of the ſaid goods, gear, corns, cattle, and others foreſaid, in manner, and at the time above ſpecified, and likewiſe in the wrongous keeping, withholding and detaining the ſame from the purſuers, with the uſe and benefit thereof ever ſince, now by the ſpace above written, and thereby damnifying them as ſaid is; and the ſame being ſo found and declared, the ſaid defenders to hear and ſee themſelves decerned and ordained, by decreet of the ſaid Lords, to reſtore and deliver to the ſaid A. B. C. D. and G. H. purſuers, the foreſaid goods, gear, corns, cattle, inſight, pleniſhing, and others above ſpecified, wrongouſly intromitted with and away-taken from them, in manner, and at the time above expreſſed, by the ſaid defenders and their foreſaids, of their cauſing and command, as ſaid is, and that to the ſaid ground and place forth of which the ſame were taken, and in as good caſe and condition as the ſame were the time aforeſaid, of the wrongous intromiſſion with, and away-taking thereof, or elſe to make payment to the ſaid purſuers of the avails, eſtimations and prices of the ſame above mentioned, which the ſame were worth, and would have yielded to the ſaid purſuers, had the ſaid goods, gear, and others foreſaid, been ſuffered

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to have remained in their poſſeſſion, and not wrongouſly intromitted with and away-taken from them by the defenders and their foreſaids, of their cauſing and command, as ſaid is, in manner, and at the time above ſpecified; and ſicklike, to make payment to them of the foreſaid ſum of —— money foreſaid, wherein they are damnified and prejudged, by their wrongous intromiſſion, and keeping, detaining, and withholding the ſaid goods, gear, and others foreſaid, with the uſe and benefit thereof, from the purſuers ever ſince the ſaid wrongous intromiſſion, and thereby forcing the purſuers to buy other goods to labour the ground, and for their other accommodation, in manner above expreſſed; and to which ſum the ſaid damage (attour the prices of the ſaid goods) ought and ſhould be liquidated by the ſaid Lords, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.*—(*To conclude the certification and ſecond diet as in the former ſummons, and then ſay*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of Declarator of Property and Commonty.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by H. D. of ----, That where, upon the ---- day of ----- 17--- years, the ſaid purſuer was heritably infeft and ſeiſed in all and haill the lands of (*here inſert the lands, with the general clauſe*, houſes, biggings, yards, *&c. as in the ſaſine*) lying within the pariſh of —— and ſheriffdom of ——, as the inſtrument of ſaſine granted to him thereupon, under the ſign and ſubſcription of —— notary public, and duly regiſtered conform to the act of parliament, in itſelf more fully proports; by virtue whereof, the ſaid purſuer, as alſo his predeceſſors and authors, conform to their rights and infeftments, have not only, by themſelves and their tenants, been in the peaceable poſſeſſion of the ſaid lands and others foreſaid, and within the haill bounds after ſpecified, *viz.* (*leave blank for half a ſheet*) as the undoubted and incontrovertible property of the ſame, either ſet down, appointed and deſigned by the late or original rights and infeftments of the ſame, paſt preſcription, or otherwiſe agreed to and condeſcended upon, by decreets-arbitral and indentures of marches, at leaſt ſo holden, eſteemed and reputed paſt all memory of man, and that by tilling, labouring and manuring of the ſaid lands and others foreſaid, or greateſt part thereof, ditching, ſtanking, and incloſing other parts, building and rearing up houſes, kilns, barns, yards, and other accommodations for heritor and tenants thereupon, and doing and performing all other deeds of property of the law requiſite and neceſſary, particularly by excluding and debarring the next adjacent heritor, and neighbours, from encroaching thereupon, or doing any open and public act of property or commonty within the ſame lands and bounds, and limits thereof above ſpecified; and ſicklike, the ſaid purſuer and his ſaid predeceſſors and authors, by themſelves and their tenants, have been in the peaceable

peaceable poſſeſſion of the moſſes, muirs, and bounds particularly after mentioned, *viz.* (*leave blank for half a ſheet*) and that as the undoubted, conſtant, perpetual and incontrovertible commonty of the ſaid lands, and ſo holden and reputed (alſo paſt all memory of man) by caſting, winning, leading, and away-taking, in and forth and from the ſaid moſſes and muirs, and other parts and places above ſpecified, and within the bounds and limits above mentioned, peats, turfs, fewel, foggage, clay, earth, ſtone, divots and heather, fir-trees and blocks, and what elſe the ſaid bounds could afford, and that for the uſe, utility and benefit of his ſaid lands and eſtate, heritors, tenants, poſſeſſors, and occupiers thereof, and likewiſe by paſturing and herding of their horſe, mares, nolt, ſheep, and other cattle and goods thereupon, and by doing and performing all other deeds of commonty of the law requiſite and neceſſary, and all till of late; and that in the month of —— laſt bypaſt, W. H. of ——, next adjacent heritor on the eaſt, W. M. next adjacent heritor on the weſt, P. T. next adjacent heritor on the ſouth, and T. W. next adjacent heritor on the north parts, to the ſaid purſuer's lands, by themſelves, their children, men-tenants, ſervants, cotters, and dependers, and others in their names, of their cauſing, ſending, hounding-out, command, reſet and aſſiſtance, daily and continually moleſt, trouble, and oppreſs the ſaid purſuer, his men-tenants, ſervants, cotters, and dependers, in the peaceable poſſeſſion, bruiking, and joicing of the ſaid lands and others above ſpecified, pertaining heritably to him in property, and likewiſe of the ſaid moſſes, muirs, and others above mentioned, pertaining to him in commonty, (and whereof he and his ſaid predeceſſors and authors, and their tenants, have been in the peaceable and immemorial poſſeſſion, in manner, and by doing and performing the deeds of property and commonty above expreſſed) and that by the ſaid defenders, and (*leave blank for a quarter of a ſheet*) their tenants and poſſeſſors of their ſaid lands next adjacent, and others in their names, of their cauſing and command, as ſaid is, their raiſing, removing, taking away, and burying and hiding under ground, ſeveral of the march-ſtones of his ſaid property, bigging of houſes, ſhealings, fold-dykes, and incloſures, within the bounds thereof, making of ſtanks and aqueducts therein, tilling, labouring, and manuring of ſeveral parts and portions thereof, and ſowing of corns therein, paſturing and herding of their cattle and goods thereupon, caſting, winning, leading, and away-taking of fewel, foggage, ſeal, ſtone, and divot forth thereof, breaking of his quarries, and winning and taking away ſtone forth of the ſame, pulling, cutting, leading, and away-taking of heather and wood off the bounds of the ſaid lands (*here inſert any further deeds of moleſtation, if any be, and according as ye are informed, and then ſay*) and alſo by hounding of the purſuer and his ſaid tenants their beſtial and goods forth of the ſaid commonty, and not ſuffering them to paſture thereon as formerly, and by parking, dyking, and incloſing ſeveral parts and portions of the ſame, ſowing corns therein, even in other parts and places of the ſaid commonty outwith the ſaid parks, dykes, and incloſures, building and making up dams, aqueducts, and water-gangs upon the ſaid commonty, for the uſe of mills on their own property, thereby occaſioning flooders, ditches, ſtanks, and hollow and deep pits, pots, and places,

places, to the great hazard and danger of the purſuer and his ſaid tenants, and their ſaid cattle and goods paſturing and herding therein, and in effect act and do ſeveral other deeds of property within the ſaid commonty, thinking thereby not only to appropriate the ſame which was formerly commonty, but alſo a great part of the purſuer's property aforeſaid, in fine, and by a continued poſſeſſion to themſelves in property, and to debar and exclude the ſaid purſuer and his heirs and ſucceſſors, and their ſaid tenants, therefrom in all time coming, without remeid be provided thereto: *And therefore*, it ought and ſhould be found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the ſaid purſuer, and his predeceſſors and authors (6), by virtue of their ſaid rights and infeftments, and immemorial poſſeſſion by themſelves and their tenants, had, likeas they have good and undoubted right to the ſaid lands and others above ſpecified, contained in the purſuer's infeftment, and that in property, and likewiſe to the moſſes, muirs, and others above mentioned, and within the particular and ſpecial bounds and limits above written in perpetual commonty, and conſequently of debarring and excluding the ſaid defenders, and their tenants and poſſeſſors, of the reſpective adjacent lands, from doing any deed of property or commonty hereafter, within the bounds, marches, and meiths of the ſaid purſuer his lands and others foreſaid, with the pertinents belonging to him in property as ſaid is, and ſicklike, from doing any deed of property, in any time coming, within the ſaid moſſes, muirs, and others above ſpecified, belonging to the ſaid purſuer and defenders only in commonty, in manner foreſaid, and that the ſaid defenders have done wrong, and committed manifeſt and open moleſtation, violence, and oppreſſion, in the foreſaid late alteration and novation; and the ſame being ſo found and declared, the ſaid defenders ought and ſhould be decerned to raiſe up the march-ſtones, where they buried and laid them, and to ſet up and place them where they were formerly, as alſo to caſt down and demoliſh all the folds, houſes, dykes, and incloſures, built and reared up by them, within the ſaid purſuer his property or commonty aforeſaid; and to fill up with earth the ſaid ſtanks, ditches, and aqueducts, and throw down the ſaid dams built by them within any part of the ſaid property or commonty, and to fill up the ſaid ſludders and hollow places occaſioned by them and their ſaid late alterations and novations, and not to labour or manure what is already brought in by them to the perfection of arable land within the ſaid commonty, or make any other uſe thereof for the future, further than in commonty with the purſuer as formerly; and laſtly, they and their tenants decerned to deſiſt and ceaſe from all further troubling or moleſting the ſaid purſuer or his foreſaids, or their tenants, or invading or encroaching upon the ſaid purſuer's property any manner of way, or yet upon the ſaid commonty, further than in common, and according to uſe and wont, and as before the ſaid late alteration and novation by whatſoever manner of way in time coming, after the form and tenor of the ſaid purſuer and his predeceſſors and authors their rights and immemorial poſſeſſion, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes in all points (7), as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaid defen-

ders, and their ſaid tenants, *viz.* (*here inſert the tenants names*) for themſelves, and in name and behalf of their ſucceſſors, heritors, tenants, and poſſeſſors of the ſaid next adjacent lands to the purſuer's lands aforeſaid, perſonally, or at their dwelling places, on twenty-one days warning, and all others having or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of ——, and other places needful, to compear before Our ſaid Lords of council and ſeſſion (*as in the former ſtyles, till ye come to*) to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared by decreet of the ſaid Lords, that the ſaid purſuer, and his predeceſſors and authors (*to conclude according to the above written ſubſumption, from this* (6) *figure, till ye come to this* (7) *figure; only, whereas the ſubſumption ſays*, ought and ſhould be found and declared, ought and ſhould be decerned, *ye muſt in the concluſion ſay*, to hear and ſee it found and declared, and to hear and ſee themſelves decerned; *and then ſay*) or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done, with certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern, and declare in manner foreſaid, (*to inſert a ſecond diet in common form, with this alteration*, viz. *after the words therein*, they ſhall be holden as confeſſed, and decreet given and pronounced againſt them in the ſaid matter, *add theſe words*, finding, decerning, and declaring in manner foreſaid:) According to juſtice, as ye will anſwer, *&c.*

Nota, There was no neceſſity to ſet down the former ſummons of moleſtation, had not wrongous intromiſſion been therein conjoined, becauſe that of moleſtation is comprehended naturally in the above written ſummons of declarator of property and commonty, and in effect is moſtly uſed, the ſummons of moleſtation being but for the preſent act, but the other a perpetual deciſion, and ridding of marches, both as to property and commonty.

SUMMONS *of general Declarator of a Single Eſcheat diſponed by the King; and becauſe this and all other Summonſes, wherein the King is concerned, muſt have a Bill, and wherein the King's Advocate, for the King's Intereſt, muſt be Complainer, as well as the Party; therefore I have firſt ſet down the Bill of this Summons, as I intend of all the reſt wherein the King may be concerned as ſaid is.*

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth, A. B. of ——— donatar after ſpecified, and S. G. M. of ——— his Majeſty's advocate for his Highneſs's intereſt, in the matter under written, That where his Majeſty, with conſent of the Lords of his Highneſs's treaſury and exchequer, by his letter of gift under the privy ſeal, of the date the ——— day of ——— 17— years, gave, granted, and diſponed to me the ſaid A. B. my heirs and aſſignees, one or more, the eſcheat of all goods, gear, (*here inſert the words of the gift, as to the donative part, and then ſay*) which pertained

of

of before to H. D. of —— the time after ſpecified of his denunciation to the horn, for the cauſe after mentioned, or which pertained to him at any time fince-ſyne, or that ſhall happen to fall, accreſce, appertain, and belong to him in any time coming during his rebellion, then pertaining and belonging to his Majeſty, and fallen and become in his Highneſs's hands, and at his gift and diſpoſition, by reaſon of eſcheat-laws and practique of this realm, and inherent privilege of his Highneſs's crown, through being of the ſaid H. D. of —— upon the —— day of —— 17— years, orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of W. M. of —— for not payment making to him of the ſum of —— Scots money of principal, —— money foreſaid of expences, and annuals of the ſaid principal ſum, ſpecified and contained in a bond made and granted by the ſaid rebel to him thereupon, of the date the —— day of —— 17— years, regiſtered in the books of council and ſeſſion the —— day of —— 17— years, as the ſaid letter of gift, of the date foreſaid, in itſelf more fully proports; by virtue whereof, his Maſteſty had, likeas I, as donatar foreſaid, have ſufficient good and undoubted right and intereſt in and to the foreſaid eſcheatable goods, gear, and others foreſaid; and I, as donatar foreſaid, ought and ſhould be anſwered, obeyed, and paid thereof, and in order thereto, the ſaid gift declared conform to the laws and daily practique of the kingdom, in that caſe provided. *Herefore*, I beſeech your Lordſhips, that I, as donatar foreſaid, with concourſe of his ſaid Majeſty's advocate, may have ſummons of general declarator in the premiſſes againſt the ſaid rebel, on twenty-one days, *&c.* and all parties having or pretending to have intereſt, as I pleaſe libel, to be tabulated in his Majeſty's table, and called by the order and privilege thereof, conform to your Lordſhips daily practique and order uſed and obſerved in the like caſes, and your Lordſhips deliverance to be granted thereanent, and your Lordſhips anſwer.

Nota, This bill the writer ſubſcribes, and ſo does the King's advocate or his truſtee, and the advocate gets his dues, and his ſervant his. If the rebel be dead, his eldeſt ſon and neareſt of kin muſt be convened in the declarator, as alſo his relict, *qua* defenders.

SUMMONS *of general Declarator on the ſaid Bill.*

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by A. B. of ——, donatar after ſpecified, and Our truſty and well-beloved counſellor Sir G. M. of ------ Our advocate for Our intereſt in the matter under written, That where (6) We, with conſent of the Lords of Our treaſury and exchequer, by Our letters of gift under Our privy ſeal, of the date the ---- day of ----- 17--- years, gave, granted and diſponed to the ſaid A. B. his heirs and aſſignees one or more, the eſcheat of all goods, gear, (*here inſert the words of the gift as to the donative part, and then ſay*) which pertained of before to H. D. of ------ the time after ſpecified of his denunciation

nunc ation to the horn, for the cauſe after mentioned, or which appertained and belonged to him at any time ſinſyne, or that ſhall happen to fall, accreſce, appertain and belong to him in any time coming during his rebellion, then pertaining and belonging to Us, fallen and become in Our hands, and at Our gift and diſpoſition, by reaſon of eſcheat laws and practique of this realm, and inherent privilege of Our crown, through being of the ſaid H. D. upon the ---- day of ---- 17--- years, orderly denounced rebel and put to the horn, by virtue of letters of horning raiſed, uſed and executed againſt him, at the inſtance of W. M. of -----, for not payment-making to him of the ſum of ----- uſual money of this realm as principal, the ſum of ----- money foreſaid of expences, and annualrents of the ſaid principal ſum, ſpecified and contained in a bond made and granted by the ſaid rebel to him thereupon, of the date the ---- day of ---- 17--- years, regiſtered in the books of council and ſeſſion upon the ---- day of ---- 17--- years, as the ſaid letter of gift, of the date foreſaid, in itſelf more fully is contained (7); by virtue whereof, We, and conſequently Our ſaid donatar, have ſufficient, good and undoubted right and intereſt in and to the foreſaid eſcheatable goods, gear, and others foreſaid, and the ſaid A. B. as donatar foreſaid, ought and ſhould be anſwered, obeyed, and paid thereof; and therefore it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid H. D. was orderly denounced rebel, and put to the horn (8), by virtue of the ſaid letters of horning, and at the inſtance of the ſaid W. M. in manner, at the time, and for the cauſe above ſpecified, and duly regiſtered thereat as ſaid is; and that therethrough, the eſcheat of the ſaid haill goods, gear, debts, ſums of money, and others foreſaid, pertaining to the ſaid H. D. the time of the ſaid rebellion, or which pertained to him at any time ſinſyne, and that ſhall happen to fall, accreſce, appertain and belong to him in all time coming during his rebellion, now pertains and belongs to Us, and is fallen and become in Our hands, and at Our gift and diſpoſition, by reaſon foreſaid, and conſequently appertains and belongs to the ſaid A. B. as donatar above ſpecified, and to his foreſaids, and that they ought and ſhould be anſwered, obeyed and paid thereof, after the form and tenor of the ſaid gift of eſcheat, laws and daily practique of this Our realm uſed and obſerved in the like caſes, in all points (9), as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid H. D. rebel foreſaid, perſonally, or at his dwelling-place, on twenty-one days warning, and all others having or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of —— and other places needful, to compear (*as in the former ſummons till ye come to*) to anſwer at the inſtance of the ſaid A. B. as donatar foreſaid, and alſo at the inſtance of Our ſaid advocate, for Our intereſt in the matter above written: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the ſaid H. D. was orderly denounced rebel and put to the horn, (*to conclude according to the above-written ſubſumption, from this figure* (8) *till ye come to this figure* (9), *and then ſay*) or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaid defenders,

Tenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid. According to juſtice, to be tabulate in Our table, and called by the order and privilege thereof, conform to the ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, 1*mo*, The date of the bill muſt be the date of the ſummons. 2*do*, It needs no ſecond diet, becauſe the rebellion is proven by the regiſtered horning and executions, and the purſuer's title, by the gift under the privy ſeal; and there being but one diet, it is directed to ſheriffs in that part, and not to meſſengers; but meſſengers, as ſheriffs in that part, may execute them. 3*tio*, It is fit to know, that of old there were three rolls, one for the king's cauſes, which was called on Friday, and the king's advocate made up this, and in which he put up what cauſes elſe he pleaſed; and there was a roll for the outer-houſe, and one for the inner-houſe; and, by the regulations, the Friday's roll was taken away as an abuſe, but the other two ſtand, and in them the king's cauſes firſt put up, and ſo no loſs to the king, or intereſt; and the lieges their cauſes come in by courſe, without partiality or preference; yea, on the Saturday, the Lord in the outer-houſe made up his own roll that day, which is alſo taken away.

SUMMONS *of ſpecial Declarator of a ſingle Eſcheat, after the Gift is declared in general, and wherein the Donatar is only Purſuer.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as it is humbly meant and ſhown to Us by A. B. of ——, donatar after ſpecified, That where (*here inſert the narrative of the former ſummons of general declarator, from the figure* (6) *till ye come to this* (7) *figure, and then ſay*) likeas the ſaid purſuer, with concourſe of Sir G. M. of —— Our advocate, for Our intereſt, raiſed ſummons, and intented action of general declarator of the foreſaid gift at their inſtance, before Our Lords of council and ſeſſion, againſt the ſaid H. D. rebel foreſaid, and all others having or pretending to have intereſt in the ſaid matter, in manner, and to the effect under-written; and which ſummons and action being oft and divers times called, in preſence of the ſaid Lords, and laſt of all upon the —— day of —— 17—— years, they, by their decreet then given and pronounced by them in the ſaid matter, found and declared, that the ſaid H. D. was orderly denounced rebel, and put to the horn by virtue of the ſaid letter of horning, and at the inſtance of the ſaid W. M. in manner, and at the time, and for the cauſe above ſpecified, and duly regiſtered thereat, as ſaid is; and that therethrough, the eſcheat of the ſaid haill goods, gear, debts, ſums of money, and others foreſaid, pertaining to the ſaid H. D. the time of the ſaid rebellion, or which pertained and accreſced to him at any time ſinceſyne, and that ſhall happen to fall, accreſce, appertain and belong to him in all time coming during his rebellion, appertained and belonged to Us, and was fallen and became in Our hands, and at Our gift

and

and diſpoſition, by reaſon foreſaid, and conſequently, appertains and belongs to the ſaid purſuer, as Our donatar and his foreſaid, and that he ought and ſhould be anſwered, obeyed, and paid thereof, after the form and tenor of the ſaid gift of eſcheat, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as the ſaid decreet of general declarator, of the date foreſaid, in itſelf alſo more fully is expreſſed: By virtue of the which gift, and declarator following thereupon, the ſaid purſuer, as donatar foreſaid, has ſufficient, good and undoubted right and intereſt, in and to the foreſaid eſcheatable goods, gear, debts, ſums of money, and others above ſpecified, pertaining to the ſaid H. D. the time of his rebellion aforeſaid, and which pertained to him at any time ſinceſyne, or ſhall happen to accreſce, fall, appertain and belong to him in any time coming during his rebellion, and he ought and ſhould be anſwered, obeyed, and paid thereof: *And true it is*, That the ſaid H. D. the time of the ſaid rebellion, and ſinceſyne, had and has appertaining and belonging to him the goods, gear, debts, ſums of money, jewels, gold, ſilver coined and uncoined, utenſils and domicils, and others after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, addebted, and reſting owing to him, by, and and in the poſſeſſion, cuſtody and keeping of the perſons after named, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz.* (*here leave blank for a ſheet, and then ſay,*) *And albeit it be of verity*, that the ſaid purſuer, as donatar foreſaid, and in whoſe favours the ſaid gift is declared, as ſaid is, has oft and divers times deſired and required the forenamed perſons, defenders, and the tutors and curators of ſo many of them as are minors, if they any have, for their intereſts, to have made payment and deliverance to him of the ſaid goods, gear, (6) debts, ſums of money, jewels, gold, ſilver, utenſils, domicils, and others above ſpecified, addebted and reſting owing by them to the ſaid rebel, and in their poſſeſſion, cuſtody and keeping, belonging to him, as ſaid is, or of the avails, eſtimations, and prices of the ſame above mentioned, together with the expences and penalties contained in the bonds and other grounds of the ſaid debts, and annualrents of ſo many of the ſaid debts as bear annualrent, either by the bonds and grounds themſelves, or by regiſtered hornings, and act of parliament made thereanent, and that of all years and terms bygone reſting owing, and in time coming during the not-payment thereof, (the terms of payment of the ſame being always firſt come and bygone,) after the form and tenor of the ſaid decreet of general declarator, bonds and other grounds of the ſaid debts, regiſtered hornings, laws and daily practique of this Our realm, uſed and obſerved in the like caſes; nevertheleſs, they wrongouſly refuſed, and as yet refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged: *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the forenamed perſons, defenders, particularly above named, *viz.* (*leave blank for their names,*) perſonally, or at their dwelling-places, on ſix days warning, and the tutors and curators of ſo many of them as are minors, if they any have, for their intereſts, by open proclamation, at the market-croſs of —— and other places needful, to

compear

compear before Our Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay,* The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders, and their ſaid tutors and curators for their intereſts, to hear and ſee themſelves decerned, by decreet of the ſaid Lords, to make payment and deliverance to the ſaid purſuer, as donatar foreſaid, and in whoſe perſon the ſaid gift of eſcheat is declared, in manner above ſpecified, of the foreſaid goods, gear, (*Take in from this figure of* (6) *in the ſubſumption, till ye come to* nevertheleſs, *and then ſay,*) in all points, or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords will proceed in the ſaid matter, and decern therein, in manner foreſaid, (*to inſert a ſecond diet, and then ſay,*) According to juſtice, to be called ſummarily on two diets of ſix days warning, becauſe the foreſaid action is acceſſory to the foreſaid decreet of general declarator, follows and depends thereupon, and is a part of the execution thereof; and alſo, the purſuer is content to refer ſo much of the premiſſes to the defenders oaths, as ſhall not be proven by writ, and ſo merits ſummar proceſs, conform to the ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.* (*The date of the bill muſt be the date of this ſummons.*) *Ex deliberatione Dominorum Concilii.*

This ſummons was wrote before the act of parliament, declaring bonds bearing annualrents, to be heritable *quoad fiſcum et relictam*; and yet, if made moveable by a charge, the donatar may purſue.

SUMMONS *of General Declarator of Eſcheat diſponed by a Lord of Regality, wherein the King's Advocate is no Purſuer, as in that of the King's Gift.*

GEORGE, *&c.* To —— Our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: Foraſmuch as, it is humbly meant and ſhown to Us by W. D. of —— donatar after ſpecified, that where J. M. of A. Lord of the regality of —— and having undoubted right of all eſcheats falling within the ſaid regality, and caſualties thereof, by his letter of gift, of the date the —— day of —— 17— years, gave, granted and diſponed to the ſaid purſuer his heirs and aſſignees, one or more, the eſcheat (6) of all goods, gear, (*here inſert the diſpoſitive clauſe of the gift exactly, and then ſay,*) which pertained of before to A. B. the time after ſpecified of his denunciation to the horn, in manner, and for the cauſes after mentioned, and which thereafter appertained and belonged to him, or ſhall happen to fall, accreſce, appertain and belong to him at any time during his rebellion, then pertaining and belonging to his Lordſhip, as Lord of the ſaid regality, and fallen and become in his hands, and at his gift and diſpoſition, by reaſon of eſcheat laws and practique of this realm, and privilege of the ſaid regality, granted to him and his predeceſſors and authors,

thors, by Us and Our moſt royal progenitors, kings and queens of Scotland, or princes thereof, conform to the rights and infeftments made to them thereupon, through the ſaid A. B. who then lived, and yet reſides within the ſaid regality, upon the —— day of —— 17— years, his being orderly denounced rebel and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of C. D. of —— for not payment making to him of the ſum of —— Scots money of principal, —— money foreſaid of expences and annuals of the ſaid principal ſum, contained (*here inſert the bond, or other ground by which the debt is due, with the date of the regiſtration, and books wherein regiſtered; and if it proceeed alſo upon an aſſignation and tranſlation, it muſt be ſo libelled, and the date inſert, and then ſay,*) as the ſaid letter of gift, of the date foreſaid, in itſelf more fully proports; by virtue whereof, the ſaid purſuer, as donatar foreſaid, has ſufficient, good, and undoubted right and intereſt in and to the foreſaid goods, gear, debts, ſums of money, and others above ſpecified, contained in the ſaid letter of gift, and he ought and ſhould be anſwered, obeyed, and paid thereof; (7) and for that effect, the ſaid gift ought and ſhould be declared, by decreet of Our Lords of council and ſeſſion, in manner under-written, conform to the laws and daily practique of this realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaid A. B. rebel foreſaid, perſonally, or at his dwelling-place, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market croſs of ——, and other places neceſſful, to compear before Our Lords of council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the —— day of ——, if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter; *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the ſaid A. B. was, upon the ſaid —— day of —— 17— years, orderly denounced rebel, and put to the horn, by virtue of the ſaid letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of the ſaid C. D. in manner, and for the cauſes above mentioned; and that therethrough, the eſcheat of all goods, gear, debts, ſums of money, and others above ſpecified, contained in the ſaid gift, pertaining to the ſaid A. B. the time of the ſaid denunciation, or which accreſced to him any time ſinceſyne, or ſhall happen to accreſce, fall, appertain, and belong to him in time coming, during his rebellion, is fallen and become in the ſaid Lord of regality his hands, (and within whoſe juriſdiction the ſaid rebel lived the time of the ſaid denunciation, and as yet lives,) and at his Lordſhip's gift and diſpoſition, by reaſon of eſcheat laws and practique of this Our realm, through the ſaid A. B. his denunciation to the horn, in manner, and at the time, and for the cauſes above mentioned; and conſequently, the ſame now appertain and belong to the ſaid purſuer, as donatar foreſaid, and that he ought and ſhould be anſwered, obeyed, and paid thereof, after the form and tenor of the

ſaid

ſaid letter of gift, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points; or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find and declare in manner foreſaid. According to juſtice, as ye will anſwer, *&c.*

Nota, Some paſs a bill for this ſummons, and others not; ſo that it is arbitrary, ſince the king's advocate is not a complainer, the king not being concerned; and ſome make the king's advocate complainer notwithſtanding, becauſe of the rebellion craved to be declared, by which the gift takes its effect: but, for the moſt part, it is otherwiſe.

SUMMONS *of ſpecial Declarator of the ſaid Eſcheat.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by W. D. of ——, donatar after ſpecified, That where J. M. of A. Lord of the regality of ——, (and having undoubted right of all eſcheats falling within the ſaid regality, and caſualties thereof,) by his letter of gift, of the date the —— day of —— 17— years, gave, granted, and diſponed to the ſaid purſuer, his heirs and aſſignees, one or more, the eſcheat (*here take in the narrative of the former ſummons, from this figure of* (6), *till ye come to this* (7) *figure, and then ſay*) whereupon the ſaid purſuer, as donatar foreſaid, raiſed ſummons and intented action of general declarator at his inſtance, of the foreſaid eſcheat, before Our Lords of council and ſeſſion, againſt the ſaid C. D. rebel foreſaid, and all others having, or pretending to have intereſt; and which ſummons and action being oft and divers times called in preſence of the ſaid Lords, and laſt of all, upon the —— day of —— 17— years, they, by their decreet of general declarator, then given and pronounced by them in the ſaid matter, found and declared (*here take in the words of the decerniture of the decreet of general declarator, until ye come to the word*, becauſe, *and then ſay*) as the ſaid decreet of general declarator, of the date foreſaid, in itſelf more fully is contained, whereby the ſaid purſuer has good and undoubted right in and to the foreſaid eſcheatable goods, gear, debts, ſums of money, and others above ſpecified, and he ought and ſhould be anſwered, obeyed, and paid thereof: *And true it is*, that the perſons *reſpectivè* after named, were addebted and reſting owing to the ſaid rebel, the time of the ſaid denunciation, and thereafter during his rebellion, and he had pertaining to him the goods, gear, (*here take in the ſtyle of the former ſummons of ſpecial declarator* mutatis mutandis, *till ye come to*) According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of General Declarator of Eſcheat and Liferent diſponed by a Subject who is both Lord of the Regality and Superior.*

GEORGE, *&c.* To —— Our ſheriffs in that part, *&c.* Foraſmuch as it is humbly meant and ſhown to Us, by A. B. of ——, donatar after ſpecified, That where J. M. of A. Lord of the regality of ——, and thereby having right to the eſcheats falling within the ſame, and haill caſualties thereof, and likewiſe ſuperior of the lands and others after mentioned, and thereby having right to the liferent eſcheat thereof, in manner after expreſſed, by his gift of the date the —— day of —— 17— years, gave, granted, and diſponed to the ſaid purſuer, his heirs and aſſignees, one or more, the eſcheat of all goods, gear, debts, ſums of money, (*here take in the words of the gift, until ye come to the words*, with full power, *and then ſay*) as the ſaid gift, of the date foreſaid, in itſelf more fully proports; (6) by virtue whereof, the ſaid purſuer, as donatar foreſaid, has ſufficient, good, and undoubted right and intereſt in and to the foreſaid goods, gear, debts, ſums of money, and others above ſpecified, falling under the compaſs of the ſaid ſingle eſcheat, as alſo in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands and others above mentioned, falling under the verge and compaſs of the ſaid liferent-eſcheat, and he ought and ſhould be anſwered, obeyed, and paid thereof; and for that effect, the ſaid gift, as to both, ought and ſhould be declared, by decreet of Our Lords of Council and Seſſion, in manner under-written, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaid -------, rebel foreſaid, perſonally, or at his dwelling-place, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of ——, and other places needful, to compear before Our ſaid Lords of Council and Seſſion, the ---- day of -------, to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of Council and Seſſion, that the ſaid ------ was, upon the ſaid --- day of ------, orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of the perſon above named, in manner, and for the cauſe above mentioned, and remained thereat, attour the ſpace of year and day, unrelaxed therefrom; and that therethrough, the eſcheat of all goods, gear, debts, ſums of money, and others above ſpecified, falling under the compaſs of the ſaid ſingle eſcheat, and which pertained of before to the ſaid --------, the time of his ſaid denunciation to the horn, and that thereafter pertained to him, or that hereafter ſhall happen to fall, accreſce, appertain, and belong to him, during his ſaid rebellion, now appertain and belong to the ſaid J. M. of A. as Lord of the ſaid regality, and are fallen and become in his hands, and at his Lordſhip's gift and diſpoſition, by reaſon of eſcheat laws and practique of this realm, and

privilege

privilege of the ſaid regality, by virtue of the rights and infeftments thereof, granted to him and his predeceſſors and authors, by Us and Our moſt royal progenitors, kings, queens, and princes of Scotland, through being of the ſaid ------, orderly denounced rebel, and put to the horn, in manner, at the time, for the cauſes, and at the inſtance of the perſon above rehearſed, and conſequently, now appertain and belong to the ſaid purſuer, as donatar foreſaid, and that he ought and ſhould be anſwered, obeyed, and paid thereof; and in like manner, to hear and ſee it found and declared, by decreet foreſaid, that the liferent-eſcheat of all lands, heritages, tenements, annualrents, rooms, and poſſeſſions, and others, with the pertinents, holden by the ſaid -------, rebel foreſaid, immediately of the ſaid J. M. of A. as ſuperior, together with the haill mails, farms, kains, cuſtoms, caſualties, profits, and duties of the ſame, of all years and terms bygone, ſince the expiring of year and day, next and immediately following his ſaid denunciation to the horn, and yearly and termly in all time coming, during the ſaid rebel his lifetime, is likewiſe fallen and become in the ſaid J. M. of A. his hands, as ſuperior foreſaid, by reaſon of eſcheat laws and practique of this realm, through being of the ſaid ------- orderly denounced rebel and put to the horn, by virtue of the letters of horning above ſpecified, in manner, at the time, for the cauſes, and at the inſtance of the perſon above mentioned, and through the ſaid rebel his remaining at the horn, attour the ſpace of year and day unrelaxed therefrom, and conſequently, that the ſame likewiſe now pertains and belongs to the ſaid purſuer, as donatar foreſaid, and that he ought and ſhould be anſwered, obeyed, and paid of the ſame, conform to the ſaid gift, laws, and practique of this realm, uſed and obſerved in the like caſes, in all points; or elſe to alledge a reaſonable cauſe, why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, the ſaid Lords will proceed in the ſaid matter, and find and declare in manner foreſaid. According to juſtice, as ye will anſwer, *&c.*

SUMMONS *of ſpecial Declarator of the ſaid Eſcheat and Liferent.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, *&c.* Whereas it is humbly meant and ſhown to Us, by A. B. of —— donatar after ſpecified, That where J. M. of A. Lord of the regality of —— (*here take in the narrative of the former ſummons, including the tenor of the gift*, ut ſupra, *till ye come to this figure of* (6), *and then ſay,*) Whereupon the ſaid purſuer, as donatar foreſaid, raiſed ſummons, and intented action at his inſtance before the Lords of council and ſeſſion, againſt the ſaid —— rebel foreſaid, and all others having or pretending to have intereſt in the ſaid matter, for declaring of the ſaid gift of ſingle and liferent eſcheats; and which ſummons and action being oft and divers times called in preſence of the ſaid Lords, and laſt of all, upon the —— day of —— 17— years, they, by their decreet of general declarator, then given and pronounced by them in the ſaid matter, found and declared, that (*here take in the words of the decerniture, till ye come to the word*

becauſe, *and then ſay)* as the ſaid decreet of general declarator, of the date foreſaid, in itſelf alſo more fully is contained; by virtue whereof, the ſaid purſuer has ſufficient, good, and undoubted right and intereſt in and to the ſaid ſingle and liferent eſcheats, and haill benefit and caſualties thereof, and he ought and ſhould be anſwered, obeyed, and paid of the ſame. *And true it is*, that (3) the ſaid —— rebel foreſaid, the time above ſpecified of his ſaid denunciation to the horn, and ſinceſyne, had pertaining to him the goods, gear, debts, ſums of money, horſe, nolt, ſheep, corns, cattle, and others after mentioned, addebted and reſting owing to him by, and in the poſſeſſion, cuſtody, and keeping of the perſons after named, of the avails, quantities, and eſtimations, and prices under written, each one of them for their own parts, as is after divided, *viz. (here leave blank for half a ſheet, and then ſay)* And ſicklike, the perſons *reſpectivè* after named, tenants and poſſeſſors of the lands and others after ſpecified, pertaining heritably to the ſaid rebel, holden by him of the ſaid J. M. of A. as ſuperior as ſaid is, are addebted and reſting owing to the ſaid purſuer, as donatar foreſaid, the mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame after mentioned, yearly, the crops and years of God under written, of the avails, quantities, eſtimations, and prices after expreſſed, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz. (here leave blank for half a ſheet* (4), *and then ſay) And albeit it be of verity*, that the ſaid purſuer, as donatar foreſaid, has oft and divers times deſired and required the forenamed perſons, debitors to the ſaid rebel in, and havers in their poſſeſſion of the ſaid goods, gear, debts, ſums of money, and others above ſpecified, fallen within the compaſs of the ſaid ſingle eſcheat, to have made payment and deliverance to him thereof, or of the avails, eſtimations, and prices of the ſame abovementioned, each one of them for their own parts, as ſaid is; and, in like manner, deſired and required the other perſons above named, tenants, poſſeſſors and occupiers of the ſaid lands and others foreſaid, pertaining heritably to the ſaid rebel, and holden by him immediately of the ſaid J. M. of A. in manner foreſaid, to have made payment to the ſaid purſuer of the ſaid mails, farms, (5) kains, cuſtoms, caſualties, profits, and duties of the ſame above ſpecified, yearly, the crops and years of God above mentioned, or of the avails, eſtimations, and prices of the ſame above written, each one of them for their own parts as ſaid is, and likewiſe to make payment to him of the like mails, duties, profits, and caſualties, yearly, in time coming, during the ſaid rebel his lifetime, and their poſſeſſion (the terms of payment of the ſame being firſt come and bygone) conform to the ſaid letter of gift, decreet of general declarator following thereupon, laws and daily practique of this realm, uſed and obſerved in the like caſes in all points: *Nevertheleſs*, the forenamed perſons wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid (*leave blank for ſix lines, and then ſay*) debitors to the ſaid rebel in, and havers in their hands of the goods, gear, and others foreſaid, pertaining to him; and ſicklike, the ſaid *(leave blank for other ſix lines, and then ſay)* tenants and poſſeſſors of the ſaid lands and

others

others foresaid, pertaining heritably to the said rebel (holden by him immediately of the said J. M. of A. in manner foresaid) personally, or at their dwelling places, on six days warning, to compear, *&c.* to answer at the instance of the said pursuer in the said matter: *That is to say*, the said defenders to hear and see the premisses sufficiently verified and proven to be of verity; and the same being so verified and proven, the forenamed persons defenders, debitors in, and havers in their hands and possession of the said goods, gear, debts, sums of money, and others above specified, fallen within the compass of the said single escheat, to hear and see themselves decerned and ordained, by decreet of our said Lords of council and session, to make payment and deliverance to the said pursuer, as donatar foresaid, thereof, or of the avails, estimations, and prices of the same above mentioned, each one of them for their own parts, as said is; and, in like manner, the other persons defenders above named, tenants, possessors, and occupiers of the said lands, and others foresaid, with the pertinents, pertaining heritably to the said rebel, and holden by him immediately of the said J. M. of A. as superior in manner foresaid, to hear and see themselves decerned and ordained, by decreet foresaid, to make payment and deliverance to the said pursuer of their said mails, farms *(here take in from the* (5) *figure in the subsumption, till ye come to* nevertheless, *and then say,)* or else to alledge a reasonable cause, *&c.* With certification to the said defenders, if they fail, Our said Lords of council and session will proceed in the said matter, and decern therein in manner foresaid *(take in a second diet, and then say)* According to justice, to be called summarily on two diets of six days warning, without any further diet, table, roll, or continuation of other summons, because the foresaid action is accessory to the foresaid gift and general declarator, follows and depends thereupon, and is a part of the execution thereof; and also the pursuer is content to refer so much to the defenders oaths as shall not be proven by writ, and so merits summar process, conform to our said Lords their daily practique and order, used and observed in the like cases, and their deliverance granted thereanent, as ye will answer, *&c.*

Ex deliberatione Dominorum concilii.

SUMMONS *of general and special Declarators in one, of an Escheat and Liferent, and shall suppose the same to be on the King's Gift.*

GEORGE, *&c.* Whereas it is humbly meant and shown to us by A. B. of —— donatar after specified, and Sir G. M. of —— Our advocate for Our interest in the matter under written, That where We, with advice and consent of the Lords of Our treasury and exchequer of Our ancient kingdom of Scotland, by Our letter of gift under the privy seal of the said kingdom, of the date the —— day of —— 17— years, gave, granted, and disponed to the said pursuer, his heirs and assignees whatsoever, one or more, the escheat of all goods, gear, *(here take in the words of the gift, till ye come to these words,* with full power, *and then say)* as the said letter of gift, of the date foresaid, in itself

more

becauſe, *and then ſay)* as the ſaid decreet of general declarator, of the date foreſaid, in itſelf alſo more fully is contained; by virtue whereof, the ſaid purſuer has ſufficient, good, and undoubted right and intereſt in and to the ſaid ſingle and liferent eſcheats, and haill benefit and caſualties thereof, and he ought and ſhould be anſwered, obeyed, and paid of the ſame. *And true it is*, that (3) the ſaid —— rebel foreſaid, the time above ſpecified of his ſaid denunciation to the horn, and ſinceſyne, had pertaining to him the goods, gear, debts, ſums of money, horſe, nolt, ſheep, corns, cattle, and others after mentioned, addebted and reſting owing to him by, and in the poſſeſſion, cuſtody, and keeping of the perſons after named, of the avails, quantities, and eſtimations, and prices under written, each one of them for their own parts, as is after divided, *viz. (here leave blank for half a ſheet, and then ſay)* And ſicklike, the perſons *reſpectivè* after named, tenants and poſſeſſors of the lands and others after ſpecified, pertaining heritably to the ſaid rebel, holden by him of the ſaid J. M. of A. as ſuperior as ſaid is, are addebted and reſting owing to the ſaid purſuer, as donatar foreſaid, the mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſame after mentioned, yearly, the crops and years of God under written, of the avails, quantities, eſtimations, and prices after expreſſed, each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz. (here leave blank for half a ſheet* (4), *and then ſay) And albeit it be of verity*, that the ſaid purſuer, as donatar foreſaid, has oft and divers times deſired and required the forenamed perſons, debitors to the ſaid rebel in, and havers in their poſſeſſion of the ſaid goods, gear, debts, ſums of money, and others above ſpecified, fallen within the compaſs of the ſaid ſingle eſcheat, to have made payment and deliverance to him thereof, or of the avails, eſtimations, and prices of the ſame abovementioned, each one of them for their own parts, as ſaid is; and, in like manner, deſired and required the other perſons above named, tenants, poſſeſſors and occupiers of the ſaid lands and others foreſaid, pertaining heritably to the ſaid rebel, and holden by him immediately of the ſaid J. M. of A. in manner foreſaid, to have made payment to the ſaid purſuer of the ſaid mails, farms, (5) kains, cuſtoms, caſualties, profits, and duties of the ſame above ſpecified, yearly, the crops and years of God above mentioned, or of the avails, eſtimations, and prices of the ſame above written, each one of them for their own parts as ſaid is, and likewiſe to make payment to him of the like mails, duties, profits, and caſualties, yearly, in time coming, during the ſaid rebel his lifetime, and their poſſeſſion (the terms of payment of the ſame being firſt come and bygone) conform to the ſaid letter of gift, decreet of general declarator following thereupon, laws and daily practique of this realm, uſed and obſerved in the like caſes in all points: *Nevertheleſs*, the forenamed perſons wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid (*leave blank for ſix lines, and then ſay*) debitors to the ſaid rebel in, and havers in their hands of the goods, gear, and others foreſaid, pertaining to him; and ſicklike, the ſaid *(leave blank for other ſix lines, and then ſay)* tenants and poſſeſſors of the ſaid lands and

others

others foresaid, pertaining heritably to the said rebel (holden by him immediately of the said J. M. of A. in manner foresaid) personally, or at their dwelling places, on six days warning, to compear, *&c.* to answer at the instance of the said pursuer in the said matter: *That is to say*, the said defenders to hear and see the premisses sufficiently verified and proven to be of verity; and the same being so verified and proven, the forenamed persons defenders, debitors in, and havers in their hands and possession of the said goods, gear, debts, sums of money, and others above specified, fallen within the compass of the said single escheat, to hear and see themselves decerned and ordained, by decreet of our said Lords of council and session, to make payment and deliverance to the said pursuer, as donatar foresaid, thereof, or of the avails, estimations, and prices of the same above mentioned, each one of them for their own parts, as said is; and, in like manner, the other persons defenders above named, tenants, possessors, and occupiers of the said lands, and others foresaid, with the pertinents, pertaining heritably to the said rebel, and holden by him immediately of the said J. M. of A. as superior in manner foresaid, to hear and see themselves decerned and ordained, by decreet foresaid, to make payment and deliverance to the said pursuer of their said mails, farms *(here take in from the* (5) *figure in the subsumption, till ye come to* nevertheless, *and then say,)* or else to alledge a reasonable cause, *&c.* With certification to the said defenders, if they fail, Our said Lords of council and session will proceed in the said matter, and decern therein in manner foresaid *(take in a second diet, and then say)* According to justice, to be called summarily on two diets of six days warning, without any further diet, table, roll, or continuation of other summons, because the foresaid action is accessory to the foresaid gift and general declarator, follows and depends thereupon, and is a part of the execution thereof; and also the pursuer is content to refer so much to the defenders oaths as shall not be proven by writ, and so merits summar process, conform to our said Lords their daily practique and order, used and observed in the like cases, and their deliverance granted thereanent, as ye will answer, *&c.*

Ex deliberatione Dominorum concilii.

SUMMONS *of general and special Declarators in one, of an Escheat and Liferent, and shall suppose the same to be on the King's Gift.*

GEORGE, *&c.* Whereas it is humbly meant and shown to us by A. B. of —— donatar after specified, and Sir G. M. of —— Our advocate for Our interest in the matter under written, That where We, with advice and consent of the Lords of Our treasury and exchequer of Our ancient kingdom of Scotland, by Our letter of gift under the privy seal of the said kingdom, of the date the —— day of —— 17— years, gave, granted, and disponed to the said pursuer, his heirs and assignees whatsoever, one or more, the escheat of all goods, gear, *(here take in the words of the gift, till ye come to these words,* with full power, *and then say)* as the said letter of gift, of the date foresaid, in itself

more

more fully proports: By virtue whereof, the ſaid purſuer has ſufficient, good, and undoubted right and intereſt, not only in and to the haill goods, gear, debts, ſums of money, and others falling under the compaſs of the ſaid ſingle eſcheat, but alſo, in and to the haill benefit of the ſaid liferent eſcheat, and he ought and ſhould be anſwered, obeyed, and paid thereof: *And true it is*, that *(here take in from the* (3) *figure to the* (4) *in the former ſummons; only, in place of theſe words*, holden by him of the ſaid J. M. of A. *ſay*, of Us as ſuperior, *and then proceed in the preſent ſtyle thus:) And therefore*, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that (8) the ſaid —— was upon the ſaid —— day of —— 17— years, orderly denounced rebel, and put to the horn, by virtue of the ſaid letters of horning, raiſed, uſed, and executed againſt him, at the inſtance of the ſaid purſuer, for not payment making to him of the ſums of money above ſpecified, and that he was duly regiſtered thereat; and that therethrough, the haill goods, gear, debts, ſums of money, and others above mentioned, pertaining to him the time of his ſaid denunciation, or which accreſced to him at any time ſinceſyne, or ſhall happen to accreſce to him in any time coming during his rebellion, pertained and belonged to Us, and has fallen and become in Our hands, and at Our gift and diſpoſition, by reaſon foreſaid; and conſequently, now appertains and belongs to Our ſaid donatar. *And in like manner*, it ought and ſhould be found and declared, by decreet foreſaid, that the ſaid —— rebel foreſaid, contemptuouſly remained and abode at the ſaid horn, attour the ſpace of year and day unrelaxed therefrom; and that therethrough, the haill benefit of the ſaid —— his liferent eſcheat, ever ſince the ſaid year and day, and in time coming during his lifetime, alſo pertained and belonged to Us, and fell and became in Our hands, and at Our royal gift and diſpoſition, by reaſon above ſpecified; and conſequently, now appertains and belongs to the ſaid purſuer, Our ſaid donatar. And the premiſſes being ſo found and declared, the forenamed perſons, debitors to the ſaid rebel in, and havers in their hands and poſſeſſion of the ſaid goods, gear, debts, ſums of money, and others above ſpecified, pertaining and belonging to him, ought and ſhould be decerned and ordained, by decreet of the ſaid Lords, to make payment and deliverance to the ſaid purſuer, as donatar foreſaid, thereof, or of the avails, eſtimations, and prices of the ſame above mentioned, each one of them for their own parts, as ſaid is. *And in like manner*, the forenamed perſons, tenants and poſſeſſors of the ſaid lands and others foreſaid, pertaining heritably to the ſaid rebel, and holden by him of Us, in manner above mentioned, ought and ſhould be decerned, by decreet foreſaid, to make payment to the ſaid purſuer, as donatar foreſaid, of the haill mails, farms, kains, cuſtoms, caſualties, profits, and duties thereof above ſpecified, yearly, ſince the expiring of the ſaid year and day, or of the avails, eſtimations, and prices of the ſame above mentioned, each one of them for their own parts, in manner foreſaid: *As alſo*, to make payment to him of the like mails, duties, and caſualties yearly in time coming, during the ſaid rebel's lifetime, and their poſſeſſion, conform to the ſaid letter of gift, decreet of general declarator to follow thereupon, laws and daily practique of this Our realm, in all

points:

points: (9) And all which, the ſaid defenders wrongouſly refuſe, poſtpone, and defer to do, albeit oft and divers times deſired and required thereto, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaids —— debitors to, and havers of the goods and gear of the ſaid rebel in their poſſeſſion, as ſaid is, and alſo the ſaids ——, tenants and poſſeſſors of the ſaid lands and others foreſaid, pertaining heritably to the ſaid rebel, and holden by him of Us, in manner above expreſſed, and alſo the ſaid —— rebel, for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of —— and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid A. B. donatar foreſaid, and alſo at the inſtance of Our ſaid advocate, for Our intereſt in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of Council and Seſſion, that *(here take in the concluſion of the ſummons, according to the ſubſumption, from the* (8) *figure to the* (9) *figure, altering theſe words*, ought and ſhould, *to* hear and ſee, *and then ſay*, or elſe to alledge a reaſonable cauſe, *&c. as in other ſummonſes.)* With certification to the ſaid defenders, if they fail, Our ſaid Lords of Council and ſeſſion will proceed in the premiſſes, and find, decern, and declare in manner foreſaid. *(Here take in a ſecond diet, becauſe of the ſpecial declarator, and then ſay)* According to juſtice, to be tabulate the ſaid general declarator in Our table, and called by the order and privilege thereof, conform to the ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c. The date of the bill is the date of the ſummons.*

Ex deliberatione Dominorum Concilii.

Nota, Write the bill, (adding the ſpecial declarator,) as in pages 118, 119.

SUMMONS *of Declarator of Ward and Non-entry, with the Relief on the King's Gift, concluding a Poinding of the Ground againſt the Tenants, and the apparent Heir therein convened.*

GEORGE, *&c.* To —— Our ſheriffs in that part, *&c.* conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge —— tenants and poſſeſſors of the lands and others after ſpecified, and —— ſon and apparent heir to the deceaſed —— laſt immediate heritable tenant and vaſſal to Us and Our moſt royal progenitors therein, for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, and the ſaid —— his tutors and curators, if he any has, for their intereſts, and all others having or pretending to have intereſt in the matter under written, by open proclamation, at the market-croſs of —— and other places needful, to compear, *&c.* to anſwer at the inſtance of J. M. of

M. of A. who has, by Our royal gift under Our privy ſeal, of the date the —— day of —— 17— years, diſponed to him, his heirs and aſſignees whatſoever, the ward and non-entry mails, (*here follow forth the diſpoſitive words of the gift, until ye come to the words*, With full power, *and then ſay*,) and alſo, at the inſtance of S. J. N. of D. Our advocate, for Our intereſt, in the matter underwritten, and with whoſe concourſe the ſaid purſuer has ſufficient, good and undoubted right and intereſt to proſecute, follow forth, and purſue the action of declarator of the ward and non-entry after ſpecified; with the relief and poinding of the ground, in manner after mentioned: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that all and ſundry the lands, heritages, tenements, and others under written, *viz.* (*here leave blank for half a ſheet*) pertaining heritably to the ſaid deceaſed —— holden by him immediately of Us, and Our moſt royal progenitors, as ſaid is, and poſſeſſed by the tenants and poſſeſſors above named, have been in Our hands, and in the hands of Our ſaid royal anceſtors, as ſuperiors foreſaid, by reaſon of ward and non-entry, ever ſince the deceaſe of the ſaid —— laſt immediate heritable tenant and vaſſal to Us therein, who deceaſed upon the —— day of —— 17— years, now by the ſpace of —— years; and that they now are in Our hands, by reaſon foreſaid, and are to remain and continue ſo in time coming, ay and while the lawful entry of the righteous heir or heirs thereto; and that therethrough, the haill mails, farms, kains, cuſtoms, caſualties, profits, and duties thereof, during the ſaid haill years and ſpace, are fallen and become in Our hands, and in the hands of Our moſt royal progenitors, and at Our gift and diſpoſition, upon the account and reaſon foreſaid, together with the relief, when the ſame ſhall happen; and conſequently, appertain and belong to Our ſaid donatar, as having right and intereſt from Us, by gift in manner foreſaid, and that he ought and ſhould be anſwered, obeyed, and paid thereof: And which lands, and others foreſaid, with the pertinents, were worth and did pay, at leaſt, might have yielded yearly, and now are worth, and may conveniently and completely, *communibus annis*, yield and pay the mails and duties after ſpecified, of the eſtimations after mentioned, *viz.* (*here leave blank for half a ſheet*) And the premiſſes being ſo found and declared, (6) the ſaid defenders to hear and ſee (7) Our other letters decerned and ordained, by decreet of Our ſaid Lords, to be directed to meſſengers at arms, ſheriffs in that part, charging them to paſs, and, in Our name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind and diſtrenzie the readieſt moveable goods and gear whatſoever, being, or that ſhall happen to be upon the ground of the ſaid lands and others foreſaid, with the pertinents, for, and to the avail and quantity of the foreſaid mails and duties of the ſame, and that yearly ſince the ſaid —— his deceaſe, now by the ſpace above ſpecified, and ſicklike yearly and termly in time coming during the ſaid ward and non-entry, the terms of payment of the ſame being firſt come and bygone, and for the relief when it falls due: And failing of moveable goods and gear, poindable and diſtrenzieable, to appriſe the ground-right and property of the ſaid lands and others foreſaid, to the avail and quantity

of

of the ſaid ward and non-entry mails, duties and relief, and make the ſaid purſuer, as donatar foreſaid, completely paid thereof, after the form and tenor of Our ſaid gift, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, Our ſaid Lords will proceed in the ſaid matter, and find, decern and declare in manner foreſaid. According to juſtice, to be tabulate in Our table, and called by the order and privilege thereof, conform to Our ſaid Lords their daily practique and order, uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, The date of the bill muſt be the date of the ſummons. *2do*, Albeit what purſued for be *debitum fundi*, yet, ſince the tenants are convened, and a poinding of the ground concluded, I think it ſhould have a ſecond diet, (however the contrary was adviſed); and the rather, that the quantity and quality of the duty muſt neceſſarily be proven, and thereby conſtituted; without which, I do not ſee how there can be a poinding, and, conſequently, no appriſing or adjudication of the property, in default of moveable goods. *3tio*, It may be urged (and not without ground), that albeit the duty be proven and conſtituted, yet in caſe moveable goods fail, how can the property be appriſed, or adjudged from the apparent heir, who is not infeft? unleſs, *1mo*, the ſame be conſtituted by ſentence againſt him, as well as the tenants; and, *2do*, he thereupon charged to enter heir in ſpecial to his predeceſſor laſt infeft, which makes a good and ſolid right; whereas, an appriſing or adjudication led otherwiſe, may be judged illegal and informal; for none ſuch can be againſt a perſon not infeft (I mean, ſummarily), and muſt be ſupplied by the uſual remedy appointed by law, *viz.* a charge to enter heir, even as in other caſes of debt; and where the heir is not infeft, nor the debt conſtituted againſt him, and a charge following thereupon, as ſaid is, there can never be any conſolidation of the property with the ſuperiority in the ſuperior's perſon, by any appriſing or adjudication otherwiſe deduced. But I leave this, and what elſe might be ſaid, to lawyers.

SUMMONS *of Declarator of Ward, Non-entry and Relief, concluding both Payment againſt the Heir, and a Poinding of the Ground againſt the Tenants, which I place here, becauſe of the former Obſervation.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè* (*here take in the former ſummons, until ye come to the* (6) *figure, and then ſay*) The ſaid —— as ſon and heir ſerved and retoured to the ſaid deceaſed —— laſt immediate heritable vaſſal and tenant to Us, as ſaid is, at leaſt lawfully charged to enter heir to him within forty days, conform to the act of parliament, at leaſt, behaving himſelf as heir to him, by intromiſſion with his heirſhip goods and gear, *titulo lucrativo*, at leaſt, as he who, by himſelf, tutors and curators, uplifted the ſaid mails and duties from the tenants yearly, and ſuch as not uplifted by himſelf applied to his uſe by his tutors and curators, or as otherwiſe repreſenting his ſaid father, and his ſaid tutors and curators for their intereſts, to hear and ſee themſelves not only decerned and ordained, by decreet of

the ſaid Lords, to make payment to the ſaid purſuer, as donatar foreſaid, of the ſaid ward and non-entry mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid, holden of Us by ſervice of ward and relief, as ſaid is, or of the avails, eſtimations and prices of the ſame above ſpecified, yearly, the years of God above mentioned, and to hear and ſee the ſame liquidated to the ſaid prices accordingly: *And ſicklike*, to make payment to him of the like duties, yearly and termly in time coming, during the ſaid ward and nonentry, together with the ſaid relief, when the ſame falls and becomes due, in manner above expreſſed; but alſo the ſaid defenders, and heritor and tenants of the ſaid lands and others foreſaid, to hear and ſee----*(Begin at the (7) figure in the former ſummons, and continue the former ſtile* uſque ad finem.)

Ex deliberatione Dominorum Concilii.

I omit to write the bill, becauſe we have a ſtile of the like formerly, and may be a rule in this, *mutatis mutandis*.

SUMMONS *of Declarator of Nonentry, without a Concluſion of Payment, or poinding of the Ground.*

GEORGE, *&c.*

Nota, This may be libelled according to the former ſtile, (leaving out the concluſion of payment, and that of poinding of the ground) and ſo omitted here, there being no other alteration than what to be omitted, as ſaid is. And the reaſon why perſons at times, and moſtly purſue only a ſimple nonentry, without theſe concluſions, is, becauſe there are but few terms elapſed, and as much may be had on the ground as may ſatisfy the ſame; and, for the future, the ground and tenants will anſwer for themſelves, and ſo no neceſſity for appriſing or adjudication; and likeways, for the moſt part, the gift is procured in favours of the apparent heir, or for his behoof, to clear the reſponde in exchequer, and liberate the judge, ſheriff, *&c.* giver of the ſaſine, to whom (albeit by the *capiendo ſecuritatem* in the precept-money be meant) yet ordinarily there is no preſent payment made, but bond given (who muſt in July thereafter clear *in ſpecie*) to liberate himſelf at the King's hands in exchequer; and ſo the production of this gift clears that point.

SUMMONS *of Declarator of Nonentry diſponed by a Subject as Superior.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. donatar after ſpecified, That where, *&c.*

Nota the following obſervation.

SUMMONS

SUMMONS *of Declarator of Ward, Nonentry and Relief, on a Subject's Gift as Superior.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. donatar after ſpecified, That where, *&c.*

Note, I thought not fit to write theſe two ſtiles *ad longum*, becauſe the former ſtiles of this nature on the King's gift, *mutatis mutandis*, is a clear rule, whether there be a concluſion of payment and poinding of the ground, or not; only the King's advocate needs not be purſuer, but only the donatar, the King not being concerned; and be ſure to call the apparent heir, as well as the tenants and tutors and curators, if the heir be minor, and all parties having, or pretending to have intereſt, as in the former ſtiles; and if there be not a concluſion of payment or poinding of the grounds, direct it only to ſheriffs in that part.

SUMMONS *for making arreſted Goods forthcoming.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpective*, *&c.* That where A. B. of —— by his bond, dated the —— day of —— 17---- years, (for the cauſes therein ſpecified) bound and obliged him, his heirs and executors, to have contented and paid to the ſaid G. D. of —— purſuer, his heirs and aſſignees, the ſum of —— Scots money, betwixt the date foreſaid of the ſaid bond, and the term of —— 17---- years, with the ſum of —— money foreſaid of liquidate expences, in caſe of failzie, and annualrent thereafter during the not-payment, as the ſaid bond, of the date foreſaid, inſert and regiſtered in the books of council and ſeſſion, and a decreet of the Lords thereof interponed thereto, upon the —— day of —— 17---- years, ordaining letters of horning, and others neceſſary to be directed thereupon, in manner therein ſpecified, in itſelf more fully proports; whereupon the ſaid purſuer raiſed letters of horning, containing poinding and arreſtment, and, by virtue thereof, cauſed P. C. meſſenger, paſs, upon the —— day of —— laſt bypaſt, and lawfully fence and arreſt in the hands of M. J. H. of —— the ſum of —— money foreſaid, leſs or more, addebted and reſting owing by him to the ſaid A. B. by bond, obligation, or otherways, to remain under ſure fence and arreſtment, at the inſtance of the ſaid purſuer, ay and while he were paid of the foreſaid ſums contained in the ſaid bond, as the ſaid letters of horning and poinding, and executions of the ſaid arreſtment, made by virtue thereof, in themſelves alſo more fully is expreſſed: And albeit it be of verity, that the ſaid purſuer has oft and divers times deſired and required the ſaid M. J. H. in whoſe hands the foreſaid ſum was arreſted, as ſaid is, to make forthcoming, payment and deliverance to him thereof, at leaſt ſo much of the ſame as will ſatisfy and pay him of the foreſaid ſums of money, principal, annualrents and expences contained in the ſaid bond, and that conform to the ſaid bond, decreet interponed thereto, letters of horning, poinding and arreſtment raiſed thereupon, executions of the ſaid arreſtment made

by virtue thereof, laws and daily practique of this realm uſed and obſerved in the like caſes in all points: *Nevertheleſs*, he wrongouſly refuſes, poſtpones, and defers to do the ſame, without he be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid M. J. H. in whoſe hands the foreſaid ſums of money were arreſted, as ſaid is, and the ſaid A. B. principal debitor, for his intereſt, perſonally, or at their dwelling places, on ſix days warning, to compear, *&c. (as in other ſummonſes that have narratives)* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders to hear and ſee the ſaid M. J. H. decerned and ordained, by decreet of the ſaid Lords, to make forthcoming, payment and deliverance to the ſaid purſuer of the foreſaid ſum of —— money foreſaid, leſs or more, addebted and reſting owing by him to the ſaid A. B. and arreſted in his hands, in manner foreſaid, at leaſt of ſo much thereof as will ſatisfy and pay him of the foreſaid ſums of money, principal, annualrents thereof, bygone, reſting owing, and in time coming during the not-payment thereof, and expences above ſpecified, contained in the ſaid bond, after the form and tenor thereof, decreet interponed thereto, letters of horning, poinding and arreſtment raiſed thereupon, executions thereof, laws and daily practique of this Our realm uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and decern therein in manner foreſaid, *(to inſert a ſecond diet, becauſe when one purſuer of ſuch actions is maſter of an extract of the bond by which the arreſted money is due, 100 purſuers refer it to the oath of the perſon in whoſe hands the money was arreſted; and then after the ſecond diet, add)* According to juſtice, to be called ſummarily on two diets of ſix days warning, becauſe the foreſaid action being a forthcoming, and acceſſory to the foreſaid arreſtment, is privileged of its own nature, and ſo merits ſummar proceſs, conform to the ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.* *Ex deliberatione Dominorum Concilii.*

Nota, The date of the bill is the date of the letters; and becauſe this ſummons muſt have a bill, I have ſet it down here.

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth G. D. of —— That where A. B. of —— being addebted to me by bond, dated the —— day of —— 17— years, the ſum of —— Scots money of principal, with annualrents and expences, in manner ſpecified in the ſaid bond, which is regiſtered in the books of council and ſeſſion the —— day of —— 17— years, I thereupon raiſed letters of horning, containing poinding and arreſtment,

reſtment, and, by virtue thereof, cauſed —— meſſenger, paſs, upon the —— day of —— laſt bypaſt, and lawfully fence and arreſt in the hands of M. J. H. of —— the ſum of —— money foreſaid, leſs or more, addebted and reſting owing by him to the ſaid A. B. of —— by bond, obligation, or otherways, to remain under ſure fence and arreſtment at my inſtance, in his hands, ay and while I were completely ſatisfied and paid of the foreſaid ſums contained in the ſaid bond whereupon the ſaid arreſtment proceeds, in manner foreſaid, as the ſaid bond, letters raiſed thereupon, and executions thereof, in themſelves more fully proport: And albeit it be of verity, that I have oft and divers times deſired and required the ſaid M. J. H. in whoſe hands the foreſaid ſums were arreſted, as ſaid is, to make forthcoming, payment and deliverance to me thereof, at leaſt of ſo much of the ſame as will ſatisfy and pay me of the foreſaid ſums contained in the ſaid bond, and whereupon the ſaid arreſtment proceeds in manner foreſaid: *Nevertheleſs, &c.* Herefore I beſeech your Lordſhips, that I may have ſummons for making the ſaid arreſted goods forthcoming at my inſtance againſt the ſaid M. J. H. and the ſaid A. B. principal debitor, for his intereſt, as I pleaſe libel, to be called ſummarily on two diets of ſix days warning, becauſe the foreſaid action being for making arreſted goods forthcoming, and acceſſory to the foreſaid arreſtment, is privileged of its own nature, and ſo merits ſummar proceſs, conform to your Lordſhips daily practique and order uſed and obſerved in the like caſes, and your Lordſhips deliverance to be granted thereanent, and your Lordſhips anſwer.

SUMMONS *of transferring of a depending Proceſs or Action.*

SUCH ſummonſes of old were very frequent, where any bond, contract, diſpoſition, or other writ were regiſtered, and the one, if not both parties deceaſed, but are now almoſt in deſuetude, (except of proceſs when parties die, and that the heir conceives an advantage and benefit by the acts and interlocutors in the cauſe;) for parties chuſe rather to purſue ſummarily on the paſſive titles, if the debitor be dead, that what objections the defender has againſt the debt or deed, may be proponed in the firſt inſtance, than firſt to transfer, which only puts the creditor *in loco quo*, and upon the back of it, meets with a ſuſpenſion, and conſumes a world of time, and protracts the creditors payment. *Secundo*, There is another caſe wherein the transferences are moſt neceſſary, beſides that of proceſs, and that is, when a perſon's predeceſſor or author acquires an eſtate, and has but one extract of the diſpoſition, and has not will to hazard the ſame in proceſs, leſt it be loſt, and probably cannot have another extract in any of the public regiſters, having periſhed, or otherwiſe loſt *tempore belli;* and therefore, I ſhall confine myſelf to theſe two, and firſt to the ſummons, whereof the title is ſet down, looking upon the defender to be only dead; for if both purſuer and defender were dead, the tranference behoved to be *activè & paſſivè*, at the inſtance of both heirs.

GEORGE

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn, and charge A. B. now of ——, ſon and heir ſerved and retoured to the deceaſed A. B of ——, at leaſt lawfully charged to enter heir to him within forty days, conform to the act of parliament, (*here libel the other paſſive titles alſo,*) perſonally, or at his dwelling-place, on twenty-one days warning, and his tutors and curators, *&c.* to compear before Our Lords of council and ſeſſion, *&c.* to anſwer at the inſtance of C. D. at whoſe inſtance the ſummons and action after ſpecified, was duly raiſed and executed againſt the ſaid deceaſed A. B. and in whoſe favours alſo the ſeveral acts, warrants, interlocutors, and minutes of proceſs, and deliverance upon bills, and otherwiſe, given and pronounced therein, and certain points of diligence and execution, by inhibition and otherwiſe, thereupon uſed and executed, for his ſecurity *in eventu*, and thereby having ſufficient good and undoubted right and intereſt, to proſecute, follow forth, and purſue the action of transference (4) thereof, after ſpecified, in manner after mentioned: *That is to ſay*, the ſaid defender, upon the *paſſive titles* above written, or one or other of them, and his ſaid tutors and curators, for their intereſts, to hear and ſee the ſummons and action under written, raiſed and purſued at his inſtance, againſt his ſaid deceaſed father, with the haill acts, warrants, interlocutors, and minutes of proceſs, and deliverances on bills, and otherways, made and pronounced therein, and diligence and execution uſed thereon, and whereof the tenor follows (*leave a blank for filling up of all, and then ſay,*) be transferred by decreet of the ſaid Lords, at the inſtance of the ſaid purſuer, in the perſon of the ſaid A. B. *paſſivè*, and of his ſaid tutors and curators, for their intereſt; and ſicklike, action, proceſs, and execution, ordained to be directed, led, raiſed, uſed, and executed, and decreet and ſentences given and pronounced therein, at the inſtance of the ſaid purſuer againſt them, as might or could have been directed, led, uſed, executed, given and pronounced at his inſtance, againſt the ſaid deceaſed A. B. at any time in his lifetime, before his deceaſe, or as if he were yet on life, for payment to him of the ſaid debts and ſums of money, and others foreſaid, and implement and fulfilling to him of the ſaid grounds whereupon the ſaid action is founded, (5) conform to the tenor thereof, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and transfer and decern therein, in manner foreſaid. According to juſtice, as ye will anſwer, *&c.* (*This ſummons needs no bill.*)

Nota, If a wakening muſt be, ye may inſert theſe words at this (4) figure, *and wakening*, and then before the word, *conform*, at the (5) figure, add theſe words, *and ſicklike, to hear and ſee the foreſaid action called, wakened, begun where it laſt left, and juſtice adminiſtrate*

ſtrate therein; until the end and deciſion thereof; which holds in the trouble and charges of a wakening *per ſe*.

Nota, If ye cannot prove a paſſive title by writ, ye muſt inſert a ſecond diet, that ye may have the benefit of the defender's oath; and if ye conclude a wakening, it muſt have a bill.

SUMMONS *of Transference of a Diſpoſition regiſtered, where the Grand-Father, and not the Father, was Granter thereof.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye lawfully ſummon, warn, and charge A. B. of ——, ſon and heir ſerved and retoured to the deceaſed A. B. of ——, at leaſt lawfully charged to enter heir to him, within forty days, conform to the act of parliament, (*here inſert the other paſſive titles, and then ſay*), and which deceaſed A. B. was ſon and heir ſerved and retoured to the deceaſed C. B. of ——, his father, (*here repeat curtly the other paſſive titles*); and ſo the ſaid A. B. of ——, as repreſenting by progreſs his deceaſed grandfather, maker and granter of the diſpoſition after ſpecified, of the lands and others after mentioned, perſonally, or at his dwelling-place, on twenty-one days warning, and his tutors and curators, *&c.* to compear, *&c.* to anſwer at the inſtance of M. J. H. of ——, ſon and heir ſerved and retoured to the deceaſed J. H. of ——, who was ſon and heir ſerved and retoured to the deceaſed W. H. of ——, to whom, and in whoſe favours the ſaid right and diſpoſition of the ſaid lands was made and granted, and thereby having ſufficient, good, and undoubted right and intereſt, as heir by progreſs to his ſaid grandfather, to proſecute, follow forth, and purſue the action of transference thereof after ſpecified, and of the decreet of the Lords interponed thereto, and of the diligence and execution that thereupon has enſued, both active and paſſive, in manner after mentioned: *That is to ſay*, The ſaid defender, as repreſenting his ſaid deceaſed father and grandfather, either immediately or by progreſs, and upon one or other of the paſſive titles, in manner foreſaid, and his ſaid tutors and curators, for their intereſt, to hear and ſee the diſpoſition under written, and decreet of the Lords interponed thereto, and whereof the tenor follows, (*here leave a blank to fill up the diſpoſition and regiſtration thereof, and then ſay*,) with the haill diligence and execution, by inhibition or otherways, that thereupon has enſued, be transferred by decreet of the ſaid Lords, in the perſon of the ſaid purſuer, as heir foreſaid *activè*, and in the perſon of the ſaid defender *paſſivè*, and of his ſaid tutors and curators, for their intereſt; and ſicklike, diligence, proceſs, action, and execution, ordained to be directed, led, raiſed, uſed, and executed therein, at the inſtance of the ſaid purſuer, as heir foreſaid, againſt the ſaid defender, as repreſenting his ſaid deceaſed father and grandfather, immediately and by progreſs, in manner foreſaid, and his ſaid tutors and curators, for their intereſts, as might or could have been directed, led, raiſed, uſed, and executed

ecuted at his own, or his ſaid deceaſed father or grandfather their inſtances, againſt the ſaid defender, his ſaid deceaſed father or grandfather, at any time in their lifetimes, before their deceaſe, or as if they were yet on life, for implement and fulfilling to him or them, of the ſaid right and diſpoſition, and ſecurity of the ſaid lands and others foreſaid, thereby diſponed, conform to the tenor thereof, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points; or elſe to alledge a reaſonable cauſe, *&c.* (*as in the former ſummons*) According to juſtice, *&c.*

Nota, This ſummons needs no bill; and if ye cannot prove a paſſive title by writ, but muſt refer all the paſſive titles to the defender's oath, ye muſt inſert a ſecond diet, if ye have not a general charge previouſly raiſed and executed.

SUMMONS *of Tranſumpt of the Writs and Evidences of certain Lands diſponed, and Teinds aſſigned, at the Inſtance of the Acquirer's Heir, againſt the Heir of the Diſponer.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: Forasmuch as it is humbly meant and ſhown to Us by C. D. of —— ſon and heir ſerved and retoured to the deceaſed W. D. of —— That where the deceaſed A. B. of —— by his diſpoſition dated the —— day of —— 17— years, for the onerous cauſes therein ſpecified, ſold, annalzied and diſponed to the ſaid deceaſed W. D. his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill the lands of ——, lying within the ſheriffdom of ——, and bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe them therein, by double infeftments, to be holden, and with abſolute warrandice, in manner ſpecified in the ſaid right and diſpoſition; whereby the ſaid deceaſed A. B. not only aſſigned, transferred, and diſponed in favours of the ſaid purſuer's father, and his foreſaids, the writs and evidents, in ſo far as might be extended to the lands and others above diſponed, with the pertinents, and tacks and other rights of the teinds parſonage and vicarage thereof, but alſo, obliged him and his foreſaids to exhibit the ſame, conform to the ſubſcribed inventory thereof apart, and of the date of the ſaid diſpoſition, before Our Lords of council and ſeſſion, or other judges competent, to the effect the ſame might be judicially tranſumpted, and the authentic tranſumpts thereof delivered to the ſaid W. D. and his foreſaids, on the diſponer and his heirs their own proper charges and expences; and likewiſe, to make the principal writs and evidents themſelves forthcoming, in all caſes and cauſes wherein tranſumpts ſhall not be ſufficient, and that upon the receiver's obligement for redelivery thereof, after cloſure of ſuch actions as they ſhould be neceſſary in, as the ſaid right and diſpoſition, of the date foreſaid, containing divers other clauſes conceived in the receiver and his foreſaids their favours, in itſelf more fully is expreſſed. (4) *And albeit*

albeit it be of verity, that the ſaid A. B. at no time in his lifetime, nor no other in his name at any time ſinceſyne, have fulfilled to the purſuer's father, at any time in his lifetime, the foreſaid diſpoſition, as to the ſaid judicial tranſumpts, and making the principal writs and evidents forthcoming, both as to ſtock and teinds, as ſaid is; and that the ſaid purſuer, as heir ſerved and retoured to his ſaid deceaſed father, has oft and divers times deſired and required A. B. eldeſt lawful ſon and heir ſerved and retoured to the ſaid deceaſed A. B. at leaſt lawfully charged to enter heir to him, (*here take in the other paſſive titles*,) to exhibit and produce the ſaid writs and evidents of the ſaid lands, and others above diſponed, and tacks and rights of the teinds parſonage and vicarage thereof, conform to the ſaid inventory, before the ſaid Lords of council and ſeſſion, to the effect above ſpecified, and on the defender's charges and expences, and likewiſe, to make the principals forthcoming in manner foreſaid; nevertheleſs, *&c.* as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid A. B. now of —— *nominibus paſſivis quibus ſupra*, perſonally, or at his dwelling-place, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defender to hear and ſee himſelf decerned and ordained, by decreet of the ſaid Lords, to bring with him, exhibit and produce before the ſaid Lords, the haill writs and evidents of the ſaid lands and others above diſponed, with the pertinents and tacks, prorogations and other rights of the teinds parſonage and vicarage thereof, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame decerned and ordained to be judicially tranſumpted, and the judicial and authentic tranſumpts of the ſame delivered to the ſaid purſuer, as heir foreſaid, under the hand of the clerk-regiſter or his deputes, and the ſaid tranſumpts ordained to be as ſufficient, and of as great force, ſtrength and effect to the ſaid purſuer, his heirs and aſſignees, in judgment, and outwith the ſame in time coming, for their peaceable poſſeſſion, bruiking, and enjoyment of the ſame, as if the purſuer had extracts of the ſame from off the public regiſter; and the ſaid defender, upon the paſſive titles above-ſpecified, or one or other of them, to hear and ſee himſelf decerned, not only to ſatisfy and pay for the ſaid tranſumpts, but alſo, to make the principal writs and evidents themſelves, as to both lands and teinds, forthcoming to the ſaid purſuer and his foreſaids, in all caſes and cauſes wherein tranſumpts ſhall not be ſufficient, and he deſired thereto, and that upon inventory, bearing an obligement for redelivery thereof, after cloſure of ſuch actions and cauſes as they ſhall be neceſſary in, after the form and tenor of the ſaid diſpoſition, laws and daily practique of this realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe, *&c.* With certification, *&c.* (*as in other ordinary ſummonſes*) According to juſtice, as ye will anſwer, *&c.*

Nota, Needs no bill; but if ye cannot inſtruct a paſſive title, inſert a ſecond diet.

SUMMONS *of Regiſtration of a Diſpoſition of Lands, by way of Action againſt the Heir of the Granter, not being regiſtered, and to prevent its Amiſſion in Proceſs, or otherwiſe.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè, &c.* Whereas it is humbly meant and ſhown to Us by C. D. of ——, eldeſt lawful ſon and heir ſerved and retoured to the deceaſed W. D. of ——, That where (*here take in the narrative of the former ſummons of tranſumpt, till ye come to the* (4) *figure, and then libel thus*) *And albeit it be of verity*, That the ſaid diſpoſition was not fulfilled by the ſaid deceaſed A. B. granter thereof, to the ſaid deceaſed W. D. in the haill obligements, articles and clauſes thereof, at any time in their own lifetimes, and that the purſuer, as ſon and heir foreſaid to the ſaid deceaſed W. D. has oft and divers times deſired and required A. B. now of ——, as eldeſt ſon and heir ſerved and retoured to the ſaid deceaſed A. B. at leaſt lawfully charged to enter heir to him within forty days, conform to the act of parliament; at leaſt, (*here inſert the other paſſive titles,*) to have fulfilled to him the ſaid diſpoſition, in the haill heads, articles and clauſes thereof; nevertheleſs, he not only wrongouſly refuſes, poſtpones, and defers to do the ſame, but alſo, will not compear before Our Lords of council and ſeſſion, and conſent to the regiſtration thereof in their books, that a decreet of the ſaid Lords may be interponed thereto, and letters of horning, and others neceſſary, appointed to paſs thereupon, or yet conſent that procurators be conſtituted for that effect, conform to the clauſe of regiſtration after-ſpecified therein contained, that the principal may be kept, and ly *in publica cuſtodia*, for preſervation thereof againſt all accidents and contingents, and the purſuer may have extracts thereof, as his own, and his heirs and ſucceſſors, their ſecurity of the lands and others foreſaid, and be a ground of execution and diligence at their inſtance againſt him, and his heirs and ſucceſſors, for implement and fulfilling of the ſaid diſpoſition, without he be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid A. B. now of —— *nominibus paſſivis quibus ſupra*, perſonally, or at his dwelling-place, on twenty-one days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defender, upon the paſſive titles above ſpecified, or one or other of them, to hear and ſee the foreſaid diſpoſition, whereof the tenor follows: (*here inſert the diſpoſition word by word, and* ſic ſubſcribitur, *as to the ſubſcriber and witneſs, and then ſay*) ordained, by decreet of Our ſaid Lords, to be inſert and regiſtered in the books of council and ſeſſion, at the inſtance of the ſaid C. D. as ſon and heir foreſaid to the deceaſed W. D. his father *activè*, againſt the ſaid A. B. now of ——, as ſon and heir foreſaid to the ſaid deceaſed A. B. of ——, maker and granter thereof, and remanent paſſive titles, or one or other of them *paſſivè*, and the principal ordained to remain, and be kept *in publica cuſtodia*, for preſervation thereof againſt all accidents and contingents, and extracts of the ſame to be given out to the ſaid purſuer, for his own, his heirs and ſucceſſors, their ſecurity of the ſaid

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lands and others foresaid, under Our clerk of register, or his deputes, their hands, and declared by the said Lords, to be as sufficient as if the same had been registered therein, in the granter and receiver's lifetime, by virtue of the said clause of registration, and patent letters for procurators therein contained; and also, to hear and see sicklike letters of horning, and other letters, execution and diligence, decerned and ordained, by decreet foresaid, to be directed, led, raised, used, and executed thereupon, at the instance of the said pursuer, as heir foresaid, against the said A. B. defender, as might or could have been directed, raised, used, and executed at the instance of the said deceased W. D. against the said deceased A. B. at any time in their own lifetimes, before their decease, or as if they were yet on life, upon an extract of the said disposition, had the same then been registered in the said books of council and session, conform to the clause of registration therein contained, and that for implement and fulfilling to the said pursuer, as heir foresaid, of the said disposition, in the haill heads, articles, and clauses thereof, in so far as the defender's father stands bound and obliged to the pursuer's father, and his heirs thereby, after the form and tenor of the said disposition, clause of registration, and patent letters, for constitution of procurators therein contained, laws and daily practique of this Our realm, used and observed in the like cases, in all points, or else to alledge a reasonable cause, *&c.* With certification, *&c.* the Lords will decern in manner foresaid. According to justice, as ye will answer, *&c.*

Nota, If ye can instruct a passive title, otherwise than by the defender's oath, it needs no second diet; else, it must.

SUMMONS *of incident Diligence*, (alias, *Exhibition of Papers*,) *to satisfy the Production, where Lands are acquired, and the Buyer and his Author's Right called in question in an Improbation, by another Person pretending Right to the Lands so acquired.*

GEORGE, *&c.* To Our lovits ——, Our sheriffs in that part, and messengers *respective*, *&c.* Forasmuch as it is humbly meant and shown to Us by A. B. of ——, eldest lawful son and heir served and retoured to the deceased A. B. of ——, That where the deceased W. D. of ——, by his right and disposition, of the date the —— day of —— 17--- years, for the onerous causes therein specified, sold, annalzied and disponed to the said deceased A. B. his heirs and assignees whatsoever, heritably and irredeemably, all and haill the lands of —— with the haill manor-places, houses, biggings, *&c. (as in the disposition)* lying within the parish of —— and sheriffdom of —— and bound and obliged him, his heirs and successors, to infeft and seise him and his foresaids, heritably and irredeemably therein, by double infeftments, to be holden, and with absolute warrandice, in manner therein expressed; and for their further security thereanent, assigned, transferred, and disponed in their favours, the writs

and evidents of the barony of —— whereof the ſaid lands and others above diſponed, with the pertinents, are a part, in ſo far as might be extended thereto, together with the ſacks, and other rights of the teinds of the barony alſo, in ſo far as might be extended to the teinds of the lands diſponed in manner foreſaid, and conſtitute them his aſſignees to the mails and duties of the ſaid lands, and to the teinds thereof, of the crop and year of God 17---- years, and yearly in all time thereafter, and all action competent thereon for ever; and bound and obliged him and his foreſaids, not only to exhibit the ſaid writs and evidents of the ſaid lands, and tacks and other rights of the ſaid teinds above diſponed, before any judge competent, to the effect the ſaid deceaſed A. B. and his foreſaids, might have judicial tranſumpts thereof; but alſo, to make the principal writs and evidents themſelves forthcoming to them, in all caſes and cauſes wherein tranſumpts ſhall not be ſufficient, as the ſaid right and diſpoſition, of the date foreſaid, containing ſeveral other clauſes conceived in their favours, together with the infeftment following thereupon, in themſelves more fully proport: *And true it is*, That, notwithſtanding of the ſaid right, yet M. J. G. pretending, as would appear, to have right to the ſaid lands, teinds, and others diſponed by the ſaid deceaſed W. D. to the deceaſed A. B. father to the ſaid purſuer, has of late, with concourſe of Our advocate, for Our intereſt, raiſed ſummons, and intented action of improbation at their inſtance, againſt the ſaid purſuer, as ſon and heir foreſaid, to his ſaid deceaſed father, and ſeveral other perſons, and all others having, or pretending to have intereſt in the matter, before Our Lords of council and ſeſſion, of all the writs and evidents, both old and new, of the ſaid lands and others above ſpecified, diſponed to the purſuer's father, and whereunto he himſelf, as heir to him, has now right; and likeways of the writs and evidents of other lands and teinds, pertaining to the ſaid other perſons, and craves exhibition thereof; and that the ſame may be civilly improven, as falſly forged, feigned, fabricated, ſimilated, counterfeited, made up, uſed and deviſed by the ſaid purſuer, and other perſons foreſaid, or their predeceſſors, cedents or authors, or one or other of them, and decerned to make no faith in judgment, or outwith the ſame in time coming; and that counterfeiters, uſers, and deviſers thereof, may be cenſured and puniſhed in their perſons, lands and goods, in example, and to the terror of others to commit the like in time coming, for the reaſons and cauſes libelled. And in which action of improbation, the ſaid purſuer was cited, for the firſt diet, by —— meſſenger, upon the —— day of —— laſt bypaſt, to compear before the ſaid Lords the —— day of —— next to come, in the hour of cauſe, with continuation of days, bringing with him the haill writs and evidents of the lands, teinds and others diſponed to his ſaid deceaſed father and his foreſaids, as ſaid is, to the effect above mentioned; and with certification, they will be improven in manner foreſaid, as the copy, or citation given to the ſaid purſuer in the ſaid matter, alſo bears. And ſeeing, by the laws and daily practique of this Our realm, where actions of eviction of lands, or other eſtate, and eſpecially improbations (the certification whereof is peremptory,) are commenced, citations given, the acquirer, or his heirs and ſucceſſors in the right, are not only bound

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and obliged to make intimation thereof to the ſeller or his heirs, as being bound in the warrandice againſt all ſuch evictions, but alſo, it is moſt neceſſary and proper for the acquirer or his heirs, ſo diſtreſſed and cited, to have all the writs and evidents called for, and craved to be produced and improven, delivered to him, and that for ſatisfying the production in any ſuch improbation, and hindering and ſtopping any certification therein. *And true it is*, That the writs and evidents of the ſaid barony of ——, and tacks and other rights of the teinds thereof, (and of which barony and teinds, the lands and teinds diſponed to the purſuer's father, and now pertaining and belonging to himſelf, as heir to him, are a part,) are in the hands, cuſtody and keeping of W. D. ſon and heir, at leaſt apparent heir to the ſaid deceaſed W. D. and of —— his friends and relations, or one or other of them; at leaſt, they, or one or other of them, meddled and intromitted therewith after the deceaſe of the ſaid W. D. or were delivered by him, or his order, to them ſometime before his deceaſe, and have fraudulently abſented, vitiated, lacerated, cancelled, deſtroyed, or put the ſame away. *And albeit it be of verity*, That the ſaid purſuer his right of the lands and teinds above ſpecified be called in queſtion, and by way of improbation, as ſaid is, and that he has oft and divers times deſired and required the forenamed perſons, or one or other of them, havers in their hands, cuſtody and keeping of the ſaid writs and evidents, at leaſt who, or one or other of them, had, have, or fraudulently have abſented, vitiated, lacerated, cancelled, deſtroyed, or put the ſame away in manner foreſaid, to give up and deliver the ſame to him, as heir foreſaid, haill in themſelves, unvitiated or cancelled, at leaſt, in as good caſe and condition as they received them, for ſatisfying the ſaid production, and preventing certification in the ſaid improbation, and upon ſubſcribed inventory, bearing the receipt thereof, and an obligement for redelivery of the ſame, after cloſure of the ſaid action; *nevertheleſs*, they not only wrongouſly refuſe, poſtpone and defer to do the ſame, *but alſo*, to exhibit and produce the ſame before Our Lords of conncil and ſeſſion, and in the clerk of the proceſs his hand; to the effect the ſame may be produced in the ſaid improbation, for ſatisfying the ſaid production, and ſtopping any certification therein. *Wherefore*, neceſſary it is to the ſaid purſuer, to have this Our ſummons of incident diligence directed at his inſtance againſt them, in manner, and to the effect after-ſpecified, conform to the ſaid diſpoſition, obligement therein contained, laws and daily practique of this Our realm heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid W. D. ſon and heir, at leaſt apparent heir to the deceaſed W. D. and the ſaids ——, havers in their hands, cuſtody and keeping of the ſaid writs and evidents, at leaſt, who, or one or other of them, had, have, or fraudulently have abſented, vitiated, lacerated, cancelled, deſtroyed, and put the ſame away, as ſaid is, perſonally, or at their dwelling-places, on ſix days warning, to compear before Our ſaid Lords of council and ſeſſion, the ſaid —— day of —— next to come, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders, or one or other of them, ha-

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vers in their hands, cuſtody and keeping of the ſaid writs and evidents of the ſaid lands and tacks, or other rights of the ſaid teinds, at leaſt, who had, have, or fraudulently have abſented, vitiated, lacerated, cancelled, deſtroyed, or put the ſame away, in manner foreſaid, to bring with them, exhibit and produce the ſame, haill in themſelves, at leaſt, in as good caſe as they received them, before the ſaid Lords, and in the clerk of the proceſs his hands, the ſaid day and place, in the hour of cauſe, with continuation of days, as ſaid is, for ſatisfying the production in the ſaid improbation, and ſtopping any certification therein, conform to the ſaid diſpoſition, obligement therein contained, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points; or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and decern in manner foreſaid. (*To add a ſecond diet.*) According to juſtice, as ye will anſwer, *&c.* *Ex deliberatione Dominorum Concilii.*

Nota, Albeit ſummons of reduction and improbation conjoined, are ſtill on twenty-one days for the firſt diet, yet improbation *per ſe* may be, and ever was, on ſix days, becauſe falſet ſhould be ſummarily diſcuſſed: And, conſequently, incidents for exhibition of writs, to ſatisfy the production in theſe improbations, muſt have the ſame benefit and privilege, being an *acceſſorium*. And next, incident diligences on improbations cannot be on acts, (as theſe mentioned in the act of parliament, importing only incidents in ordinary actions,) for they are null, if they be not raiſed before the day of compearance in the ſecond ſummons.

SUMMONS *of Wakening of any Proceſs.*

GEORGE, *&c.* To Our lovits, *&c.* Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by A. B. of —— That where the ſaid purſuer raiſed ſummons, and intented action at his inſtance, before Our Lords of council and ſeſſion againſt C. D. of —— touching (*here take in the words of the principal ſummons* concluſivè, *and reſerve the ſpecifics to the libel, thus,*) the decerning of him by the ſaid Lords their decreet, to make payment to the ſaid purſuer of the ſums of money libelled, addebted by the defender to him, in manner, and for the cauſes libelled, or the like, as the ſummons bears, (*or, if it were a reduction and improbation, ſay*) touching his exhibition and production before the Lords, of the writs and evidents libelled, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, *&c.* and alſo as being forged and feigned, *&c.* improven and declared to make no faith in judgment, or outwith the ſame in time coming, and the counterfeiters, uſers, and deviſers thereof cenſured and puniſhed in their perſons, lands, and goods, in example, and to the terror of others to commit the like in time coming, for the reaſons and cauſes libelled, in manner more fully ſpecified in the ſaid ſummons, which contains two diets, and was executed as to both, and upon the —— day of —— called, tabulated, and compearance made for the defenders, and ſince which time (now by the ſpace of ——) the ſaid action has lain over and ſlept; wherefore neceſſary it is for the ſaid purſuer

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to have the ſame wakened, in manner, and to the effect after ſpecified, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge —— defenders in the ſaid principal action, perſonally, or at their dwelling-places, on ſix days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the ſaid principal action and cauſe, called, wakened, inſiſted in, begun where it laſt left, and juſtice adminiſtered therein, until the final end and deciſion thereof, conform to the laws and practique of this Our realm, uſed and obſerved in the like caſes in all points, or elſe to alledge, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and reduce, improve, find, decern and declare, conform to the principal ſummons aforeſaid, in all points. According to juſtice, *&c.* to be called ſummarily (6) on the ſaid one diet of ſix days warning, but any further diet, table, roll, or continuation of other ſummons, becauſe the ſaid ſummons being a wakening, is privileged of its own nature, and ſo merits ſummar proceſs, conform to the ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.* *Given under Our ſignet at Edinburgh*, &c.

Ex deliberatione Dominorum Concilii.

Nota, This ſummons ſhould have a bill, and the date of the bill is the date of the ſummons, as in all other caſes wherein there be bills.

Nota, The certification of this ſummons is upon a ſuppoſition, that the principal ſummons is a reduction and improbation; but if otherwiſe, *the Lords will decern in manner foreſaid*, is ſufficient, except it be a wakening of a declarator, and then add, *find, decern, and declare in manner foreſaid.*

Nota, If the principal action be a reduction and improbation, the King's advocate ſhould be in the wakening, as well as the party, who, without the other, cannot purſue; and if not in the principal action, he cannot in the other; but exacts not ten merks, as in the firſt action, neither for the bill nor tabling.

Nota, The bill is omitted here, being common and eaſy.

SUMMONS *of wakening of Suſpenſion, expired year and day without calling for.*

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to Us, by A. B. of ——, That where the ſaid purſuer having raiſed letters of horning at his inſtance, againſt C. D. of —— and, by virtue thereof, cauſed charge him to make payment to the ſaid purſuer of the ſum of —— Scots money of principal, with annualrent and expences, contained in a bond granted by him to the ſaid purſuer thereupon, of the date the —— day of —— 17---- years, regiſtered in the books of council and ſeſſion the —— day of —— 17---- years, and that within

within a certain ſhort ſpace next after the charge, under the pain of rebellion, and putting of him to the horn, he, for eviting the danger thereof, meaned himſelf to Our Lords of council and ſeſſion, and upon certain frivolous reaſons, and finding of caution, obtained ſuſpenſion in the ſaid matter (6) upon the —— day of —— 17---- years, now by the ſpace of —— ſince which time the ſame has lain over uncalled, wakened or diſcuſſed: Wherefore, neceſſary it is for the ſaid purſuer to have this Our ſummons of wakening, directed at his inſtance againſt the ſaid purſuer, in manner, and to the effect after ſpecified, conform to the laws and inviolable practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. D. ſuſpender, *&c.* on ſix days warning, to compear, *&c.* bringing with him the principal ſuſpenſion raiſed by him againſt the ſaid purſuer, in the ſaid matter, with the haill grounds and warrants whereupon the ſame proceeded, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame called, wakened, reaſoned, inſiſted in, and diſcuſſed, until the final end and deciſion thereof; or elſe, *&c.* With certification to the ſaid ſuſpender, if he fail, Our ſaid Lords will cauſe call the ſame by a ſhort copy, and admit proteſtation therein, ordaining the ſaid letters to be put to farther execution, and likeways decern proteſtation money, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points. According to juſtice, *&c.* to be called ſummarily, *(as in the former ſummons of wakening, from this (6) figure, and then ſay,)* as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, Since the ſummons muſt have a bill, it follows, and here is ſet down.

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth A. B. of —— That where I having raiſed letters of horning at my inſtance, againſt C. D. of —— and by virtue thereof, cauſed charge him to make payment to me of the ſum of 1000 merks Scots money of principal, with annualrents and expences due by him to me by bond, dated the —— day of —— 17-- years, regiſtered the — day of ——, and that within a certain ſhort ſpace next after the charge, under the pain of rebellion, *&c.* he, for eſchewing the danger thereof, meaned himſelf to your Lordſhips, and upon certain frivolous reaſons, and finding of caution, obtained ſuſpenſion in the ſaid matter (6) upon the —— day of —— 17---- years, now by the ſpace of —— ſince which time the ſame has lain over undiſcuſſed, to my great hurt and prejudice, without remeid be provided thereto: *Herefore* I beſeech your Lordſhips, that I may have ſummons of wakening in the premiſſes againſt the ſaid C. D. ſuſpender, as I pleaſe libel, to be called ſummarily on ſix days warning, but any further diet, table, roll or continuation of other ſummons, becauſe the ſame being a wakening, is privileged of its own nature, and ſo merits ſummar proceſs, conform to your Lordſhips daily practique

and

and order uſed and obſerved in the like caſes, and your deliverance to be granted thereanent, and your Lordſhips anſwer.

BILL *of Summons* Prevento termino.

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth A. B. of —— That where C. D. of —— *(here take in the narrative of the former bill of wakening of a ſuſpenſion, till ye come to the* (6) *figure, and then ſay,)* to a certain long day yet to come, thereby to poſtpone juſtice, and fruſtrate me of my payment this ſeſſion, and that to my great hurt and prejudice, without remeid be provided thereto: *Herefore* I beſeech your Lordſhips, that I may have ſummons in the premiſſes, as I pleaſe libel, for citing the ſaid C. D. ſuſpender, perſonally, or at his dwelling-place, to compear before your Lordſhips the morrow next after the charge *prevento termino*, bringing with him, exhibiting and producing before your Lordſhips the foreſaid pretended principal ſuſpenſion, raiſed by him in the ſaid matter, and haill grounds and warrants whereupon the ſame proceeded, to be ſeen and conſidered by your Lordſhips, and to hear and ſee the ſame called for, reaſoned, inſiſted in, diſcuſſed, and juſtice adminiſtered therein, until the final end and deciſion thereof, *prevento termino*, and notwithſtanding the day of compearance be not yet come; or elſe, *&c.* With certification, *&c.* (*in communi forma*) and your Lordſhips anſwer.

SUMMONS prevento termino, *on the ſaid Bill.*

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, conjunctly and ſeverally, *&c.* Foraſmuch as it is humbly meant and ſhown to Us, by A. B. of ——, That where (*here take in the narrative of the former ſummons of wakening of a ſuſpenſion, till you come to the* (6) *figure, and then ſay*) to a certain long day yet to come, thereby to poſtpone the purſuer of juſtice, and fruſtrate him of payment this ſeſſion, to his great hurt and prejudice, without remeid be provided thereto, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid C. D. ſuſpender, *&c.* to compear before the ſaid Lords, at Edinburgh, or where it ſhall happen them to be for the time, the morrow next after the charge *prevento termino*, bringing with him, exhibiting and producing before the ſaid Lords, the foreſaid pretended principal ſuſpenſion raiſed by him in the ſaid matter, and haill grounds and warrants whereupon the ſame proceeded, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame called, reaſoned, inſiſted in, diſcuſſed, and juſtice adminiſtered therein, until the final end and deciſion thereof *prevento termino*; or elſe to alledge a reaſonable cauſe, why the ſame ſhould not be done: With certification to him, if he fail, the ſaid Lords will allow the ſame to be called

ed for by a ſhort copy, and admit proteſtation in the ſaid matter, ordaining the ſaid letters to have effect, and to be put to further execution, notwithſtanding of the foreſaid ſuſpenſion, reaſons therein contained, and that the day of compearance is not yet come. According to juſtice, as ye will anſwer, *&c.*

Ex deliberatione Dominorum concilii.

BILL *of Summons of Improbation* per ſe, *which ſeldom falls out, but where there is a real Falſhood, and yet I ſet it down.*

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth, A. B. of ——, by whom the pretended bond and diſpoſition after ſpecified, are alledged made and granted, and S. G. M. of R. his Majeſty's advocate, for his Highneſs's intereſt in the matter under written, That where I, the ſaid A. B. am, with concourſe of his ſaid Majeſty's advocate, to raiſe ſummons and intent action at my inſtance, againſt C. D. of ——, and all others having, or pretending to have intereſt in the matter under written, before your Lordſhips, touching the exhibition and production before your Lordſhips, of the pretended bond and diſpoſition under written, *viz.* —— of the dates, tenors, and contents above ſpecified, or of whatſoever other dates, tenors, or contents the ſame be of, to be ſeen and conſidered by your Lordſhips, and to hear and ſee the ſame, (6) being falſly forged, *&c.* be civilly and lawfully improven, *&c.* and being ſo improven, decerned and declared to make no faith in judgment, *&c.* and the counterfeiters, *&c.* cenſured and puniſhed, *&c.* for the reaſons and cauſes libelled. *Herefore* I beſeech your Lordſhips, that I, with concourſe of his ſaid Majeſty's advocate, may have ſummons in the premiſſes, as I pleaſe libel, upon two diets, the firſt on ſix days, and the ſecond on ſix days, to be tabulate the ſaid improbation in his Majeſty's table, and called by the order and privilege thereof, conform to your Lordſhips daily practique and order uſed and obſerved in the like caſes, and your deliverance to be granted thereanent, and your Lordſhips anſwer.

The King's advocate's conſent and ſubſcription muſt be firſt had to this bill, and then written upon, in the bill-chamber, and paſſed by the Lord Ordinary on the bills, and then ſubſcribed by the clerk of the bills, and goes in courſe.

SUMMONS *of Improbation, on the ſaid Bill.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn, and charge C. D. of ——, to whom, and in whoſe favours, the pretended bond and diſpoſition after ſpecified, are alledged made and granted, in manner after

after mentioned, perſonally, or at his dwelling-place, on ſix days warning, and all others, *&c.* by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of A. B. of ——, by whom, and to whoſe great hurt and prejudice, the foreſaid pretended bond and diſpoſition are alledged made and granted, and alſo to anſwer at the inſtance of S. G. M. of R. Our advocate, for Our intereſt, in the matter under written, and with whoſe concourſe the ſaid purſuer has ſufficient, good, and undoubted right and intereſt, to call for exhibition and production thereof, and to proſecute, follow forth, and purſue the action of (7) improbation thereof, after ſpecified, in manner after mentioned: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before Our ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, (*here inſert the tenor of the bond and diſpoſition craved to be improven, and then ſay*) of the dates, tenors, and contents above ſpecified, or of whatſoever other dates, tenors, or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame, (8) as being falſly forged, feigned, fabricated, ſimilated, counterfeited, made up, uſed and deviſed by the ſaid defender, be civilly and lawfully improven by decreet of the ſaid Lords, and that *per teſtes inſertos, et omni alio modo quo de jure*, and being ſo improven, decerned, and declared by their decreet, to make no faith in judgment, nor outwith the ſame, in time coming; and the ſaid defender, counterfeiter, uſer, or deviſer thereof, ordained alſo to be cenſured and puniſhed in his perſon, lands, and goods, in example, and to the terror of others, to commit the like in time coming, for the reaſons and cauſes following, *to wit*, (*here leave a blank for the reaſons, and then ſay*,) and therefore, the foreſaid pretended bond and diſpoſition, of the dates, tenors, and contents above ſpecified, or of whatſomever other dates, tenors, or contents, the ſame be of, ought and ſhould (9) as being falſly forged, feigned, fabricated, ſimilated, counterfeited, made up, uſed, or deviſed by the ſaid defender, be civilly and lawfully improven, by decreet of the ſaid Lords, and that *per teſtes inſertos, et omni alio modo quo de jure*; and being ſo improven, decerned and declared by decreet foreſaid, to make no faith in judgment, or outwith the ſame, in time coming; and the counterfeiter, uſer, and deviſer thereof, cenſured and puniſhed in his perſon, lands, and goods, in example, and to the terror of others, to commit the like in time coming, for the reaſons and cauſes foreſaid, and others, *&c.* conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points; or elſe, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion, will proceed in the ſaid matter, and (10) improve, decern, and declare in manner foreſaid; and if the ſaid defender fail, and compear not, day and place foreſaid, that ye meſſengers at arms (the firſt diet being elapſed) of new again lawfully ſummon, warn, and charge him, perſonally apprehended, on ſix days warning, to compear perſonally, before the ſaid Lords, the —— day of —— thereafter, in the hour of cauſe, with continuation of days, to hear and ſee all neceſſary and lawful probation led and deduced in the ſaid matter, and to give and depone his oath of verity thereto, in ſo far as ſhall not be proven by writ or

witneſſes, with certification to him, if he fail, he ſhall be holden as confeſſed, and decreet given and pronounced againſt him, in the ſaid matter, (11) improving, decerning, and declaring in manner foreſaid. According to juſtice, *&c.* to be tabulate the ſaid improbation in Our table, and called by the order and privilege thereof, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.* *Ex deliberatione Dominorum Concilii.*

Nota, There is alſo ſummons of reduction and improbation; and, becauſe of the improbation, muſt have a bill, to be expede in the way and manner formerly preſcribed: But I omit both the ſummons and bill here, there being no difference betwixt this and the former, but to add the words of the reduction in their proper places, *viz.* in the bill, at this (6) figure, add *the ſame reduced, retreated,* &c. *and alſo to hear and ſee the ſame,* as in the bill; and in the ſummons, at this (7) figure, add *reduction*; and at this (8) figure in the ſummons, add *be reduced, retreated, reſcinded, caſſed, annulled, decerned, and declared, by decreet of the ſaid Lords, to have been from the beginning, to be now and in all time coming, null, and of no avail, force, ſtrength, nor effect, with all that has followed, or that may follow thereupon*; and alſo follow the former draught, till ye come to this (9) figure, and then add *be reduced, retreated, reſcinded,* ut ſupra; and alſo follow forth the draught till ye come to this (10) figure, and then ſay *reduce*; and afterwards follow forth the draught till ye come to this (11) figure, and there add *reducing*; and then follow forth the draught *ad finem.* And as this ſummons muſt have a bill, becauſe of the improbation, as ſaid is, ſo the date of the bill muſt be the date of the ſummons; and afterwards add, *Ex deliberatione Dominorum Concilii.*

Nota, Sometimes when an eſtate is affected with ſeveral appriſings, adjudications, infeftments of property and annualrents, *&c.* and even inhibitions and interdictions, it is uſual for the creditor who conceives himſelf to have the firſt or beſt buckled appriſing or adjudication, and thereby apprehends he may exclude the reſt, either merely upon the account of preference, or by reaſon of nullities in their rights, which may overturn and evacuate the ſame, or becauſe the rights were ſatisfied by the debitor himſelf, or by intromiſſion, and yet kept up and made uſe of for the behoof of the debitor, and the like grounds, to raiſe ſummons of reduction, improbation, and declarator, not only againſt all theſe pretenders, but alſo the heritor himſelf, for his intereſt; and albeit improbation be ordinarily conjoined, it is only to force a production of all their rights, and by a certification to bolt the door *contra non producta*; and as to what produced, to know the ſtrength or weakneſs, and nullities thereof, in order to proſecute the reduction; and if that fail, in caſe no nullities or ground of reduction to be found, then to proſecute the declarator upon the ſeveral *mediums* thereof, which always ſhould be libelled by way of alternatives, that what one will not do, another may; and therefore, it is not unworthy of my pains to libel the ſaid ſummons; and firſt, I begin with its bill, becauſe a bill muſt be upon the account of improbation.

BILL *of Reduction, Improbation, and Declarator.*

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth, M. J. H. of ——, and S. J. N. of D. his Majeſty's advocate, for his Highneſs's intereſt, in the matter under written, That where I, with concourſe of his ſaid Majeſty's advocate, am to raiſe ſummons and intent action, at my

my inſtance, before your Lordſhips, againſt C. D. of ——, who is lawful debitor to me, for myſelf, and having right from divers other perſons, in great and conſiderable debts and ſums of money, by bonds and otherways, and for which I have appriſed his lands and eſtate, and thereupon ſtand infeft and ſeiſed, and againſt ——, to whom, or one or other of them, he was alledged interdicted, before contracting of one or other of the ſaid debts, and alſo againſt ——, who likeways pretend to be creditors to the ſaid C. D. my debitor, by bonds, decreets, appriſings, adjudications, infeftments of property, and annualrents, or otherways, and —— their cedents, in one or other of the ſaid debts and rights, yet on life, and —— heirs, or apparent heirs to ſuch of their cedents and authors as are deceaſed, and at whoſe inſtances, and their cedents, or one or other of them, there were, as is alledged, inhibitions raiſed, ſerved, executed, and regiſtered againſt my ſaid debitor, and the lieges, before contracting of ſome of the ſaid debts, and ſums of money, due to me in manner foreſaid, —— meſſengers, alledged executers of the ſaid interdictions and inhibitions, and denouncers of the ſaid C. D. my debitor his ſaid lands and eſtate, now belonging to me, at the inſtance of his ſaid other creditors ——, and alledged judges in the pretended appriſings, led and deduced thereupon at their inſtance, and executers of the ſummons of adjudication, whereupon the ſaid adjudications proceed, and —— clerks to the ſaid appriſings, —— clerk of regiſter, —— clerks of ſeſſion, and —— clerks of ——, by whom, or one or other of them, the ſaid pretended bonds were regiſtered, and who were clerks to the ſaid other decreets; and likeways againſt (*leave blank for ſome lines, in caſe there be a neceſſity to call any more perſons, and then ſay*) and againſt the tutors and curators of ſo many of the ſaid defenders as are minors, if they any have, for their intereſts, and all others having, or pretending to have intereſt in the matter above and under written, touching their exhibition and production before your Lordſhips, of the bonds, obligations, decreets, aſſignations, tranſlations, diſpoſitions, inhibitions, and executions thereof, interdictions and executions of the ſame, letters of appriſings, executions thereof, decreets of appriſings and adjudications, charters and ſaſines following thereupon, infeftments of property and annualrents, and other writs and evidents after ſpecified, *viz.* (*here leave a large blank for the production, and then ſay*) of the dates, tenors, and contents above ſpecified, or of whatſoever other dates, tenors, or contents the ſame be of, to be ſeen and conſidered by your Lordſhips, and to hear and ſee the ſame reduced, retreated, reſcinded, *&c.* And alſo as being falſly forged, feigned, *&c.* be civilly and lawfully improven, *per teſtes inſertos, et omni alio modo quo de jure;* and being ſo improven, decerned and declared to make no faith in judgment, nor outwith the ſame in time coming; and the counterfeiters, uſers, and deviſers thereof cenſured and puniſhed, *&c.* for the reaſons and cauſes following: In the firſt (*here leave a blank for the reaſons, and then ſay*) at leaſt, to hear and ſee it found and declared, by your Lordſhips decreet, that (*here I omit the grounds of declarator, for brevity's cauſe, becauſe they are inſert in the ſummons* ad longum, *but muſt be inſert in the bill alſo, and it is fit that a little blank be left likeways, for inſerting more grounds, in caſe*

caſe lawyers think fit to add, and then ſay) conform to my right and infeftments, laudable laws and daily practique of this realm, heretofore inviolably obſerved in the like caſes, in all points. *Herefore* I beſeech your Lordſhips, that I, with concourſe foreſaid, of his Majeſty's advocate, may have ſummons in the premiſſes, againſt the ſaid defenders ——, as I pleaſe libel, to be called on two diets, the one for citing ſuch as are within the kingdom, on twenty-one days, and ſuch as are forth thereof, by open proclamation, at the market-croſs of Edinburgh, and pier and ſhore of Leith, on ſixty days, and againſt the ſaid tutors and curators, and all others having, or pretending to have intereſt, by open proclamation, at the market-croſs of ——, and other places needful, and the other diet on ſix days warning, againſt ſuch as are within the kingdom perſonally, and ſuch as are forth thereof, in manner above ſpecified, on fifteen days warning, to be tabulate the ſaid improbation in his Majeſty's table, and called by the order and privilege thereof, conform to your Lordſhips daily practique and order uſed and obſerved in the like caſes, and your deliverance to be granted thereanent, and your Lordſhips anſwer.

Note, This bill is to be ſubſcribed by the King's advocate, and thereafter paſſed as the former bill of improbation.

SUMMONS *of Reduction, Improbation and Declarator on the former Bill.*

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn, and charge ——, to whom, or one or other of them, C. D. of —— was alledged interdicted, and letters of publication thereupon alledged executed and regiſtered, and ——, to whom and in whoſe favours, or their predeceſſors, cedents and authors, the pretended bonds, obligations, contracts, diſpoſitions, charters, procuratories, and inſtruments of reſignation, precepts and inſtruments of ſaſine, and other writs and evidents, rights and ſecurities after-ſpecified, are alledged made and granted by the ſaid C. D. of ——, and decreet obtained againſt him, at their inſtance, for debts in manner after mentioned, and at whoſe inſtance, or one or other of them, the pretended inhibitions under written are alledged ſerved, executed, and regiſtered againſt him and Our lieges, and the appriſings and adjudications after-ſpecified, of the ſaid C. D. his lands and eſtate after-mentioned, alledged led, deduced, and obtained; and they, or one or other of them, by virtue of Our charters under the great ſeal, or charters from other ſuperiors thereupon infeft, and decreets of mails and duties, and poinding of the ground accordingly obtained, and alſo ——, cedents and authors to the ſaid defenders, in one or other of the ſaid rights, yet on life, and —— heirs, at leaſt apparent heirs to ſuch of their ſaid cedents and authors as are deceaſed, and —— meſſengers, alledged executers of the ſaid interdiction and inhibitions, and denoun-

cers

ters of the ſaid lands, and judge in the ſaid appriſings; and likewiſe executers of the ſummons of adjudication, whereupon the ſaid decreets of adjudication proceed, and —— clerks to the ſaid appriſings, and —— Our clerk of regiſter, and —— clerks of Our ſeſſion, and —— clerks of the ſheriffdoms of ——, and —— clerks of the commiſſariots of ——, and —— clerks of the boroughs of ——, by whom, or one or other of them, the ſaid pretended bonds were regiſtered, and who were clerks to the ſaid other decreets, and —— and the ſaid C. D. of —— for his intereſt, in manner following, *viz.* ſo many of them as are within the kingdom, perſonally, or at their dwelling-places, on twenty-one days warning, and ſo many of them as are forth thereof, by open proclamation at the market-croſs of Edinburgh, and pier and ſhore of Leith, on threeſcore days warning, and the tutors and curators of ſo many of the ſaid defenders as are minors, if they any have, for their intereſts, and all others having, or pretending to have intereſt in the matter under-written, by open proclamation at the market-croſs of ——, and other places needful, to compear before Our Lords of council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the —— day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of Our lovit Mr. J. H. of ——, heritable proprietor of ——, and who ſtands heritably infeft and ſeiſed in the lands and others after-ſpecified, *viz.* (*here leave blank for the lands and teinds, which muſt be inſert as they ly in the charter and ſaſine on the ſaid appriſing, and then ſay*) conform to the charters granted by Us and Our moſt royal progenitors, and other ſuperiors, to him thereupon, and ſaſines following on the ſame, which are duly regiſtered conform to the act of parliament; and which charters proceed on an appriſing led at the inſtance of the ſaid Mr. J. H. purſuer, againſt the ſaid C. D. of ——, heritor of the ſaid lands, teinds, and others foreſaid, within the new ſeſſion-houſe of Edinburgh, before —— meſſenger and his colleagues, upon the —— day of —— 17— years, for payment to him of the ſeveral ſums of money, principal, annualrents, and expences contained in the bonds, and other grounds therein ſpecified, extending in the haill, at the term of ——, to the ſum of —— Scots money, and that as for the principal, and of the ſheriff-fee effeiring thereto, extending to the ſum of —— money foreſaid, *ſalvo juſto calculo*; and which appriſing was allowed by the Lords the —— day of ——, and whereof the legal is long ſince expired: And alſo, to anſwer at the inſtance of Our truſty counſellor S. J. N. of —— Our advocate, for Our intereſt, in the matter after-ſpecified, and with whoſe concourſe the ſaid purſuer, as having right in manner foreſaid, has ſufficient, good, and undoubted right and intereſt, to call for exhibition and production of all the ſaid pretended interdictions, inhibitions, appriſings, adjudications, and other rights, diligences, and executions, with the grounds thereof, and what elſe relating thereto, that may ſeem to burden and affect the ſaid lands, teinds, and others foreſaid, and to extricate the ſame of all ſuch incumbrances and pretenſions; and conſequently, to proſecute, follow forth, and purſue the actions of reduction, improbation and declarator after-mentioned, in manner after expreſſed: *That is to ſay*,

The

The ſaid defenders to bring with them, exhibit and produce before Our ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, the pretended bonds, obligations, contracts, diſpoſitions, charters, infeftments, procuratories, and inſtruments of reſignation, precepts, and inſtruments of ſaſine, decreets of appriſings and adjudications, and other decreets, inhibitions, interdictions, letters of publication thereon, and executions of both, executions of the ſaid appriſings, and of the ſummons whereupon the ſaid adjudications proceeded, and other writs, evidents, rights, executions, and diligences under-written, *viz.* (*here leave blank for the production, and then ſay*) of the dates, tenors and contents above-mentioned, or of whatſoever other dates, tenors or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, retreated, reſcinded, (4) caſſed, annulled, decerned and declared, by decreet of the ſaid Lords, to have been from the beginning, to be now, and in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or that may follow thereupon; and alſo, as being falſly forged, feigned, fabricated, ſimilated, counterfeited, made up, uſed or deviſed by the ſaid defenders, and their cedents and authors, or one or other of them, be civilly and lawfully improven, *per teſtes inſertos, et omni alio modo quo de jure;* and being ſo improven, decerned and declared to make no faith in judgment, or outwith the ſame in time coming; and the counterfeiters, uſers and deviſers thereof, ordained to be cenſured and puniſhed in their perſons, lands and goods, in example, and to the terror of others to commit the like in time coming, for the reaſons and cauſes following: In the *firſt* (*here leave a blank for the reaſons, and then ſay*) at leaſt, to hear and ſee it found and declared, by decreet foreſaid, that the ſaid pretended interdiction, and inhibitions and executions thereof, are *ipſo facto* null, as wanting the uſual ſolemnities preſcribed by law, namely (*here take in ſuch as ye find wanting in the executions or regiſtrations*); at leaſt, to hear and ſee it found and declared, that all the ſaid pretended bonds, appriſings, adjudications, inhibitions, and other rights, were ſatisfied by the common debitor himſelf, or by the defenders or their cedents their intromiſſions, and only kept up, and now made uſe of, to affect and burden (if poſſible) the ſaid lands and eſtate, ſometime pertaining to the ſaid common debitor, and for his, or his children, or ſome other confident's behoof, in prejudice of the purſuer, a lawful and conſiderable creditor, and who now has legally evicted the ſame, the way and manner foreſaid, and for juſt and lawful debts; at leaſt, to hear and ſee it found and declared, that the ſaid purſuer, by virtue of his ſaid appriſing and infeftments thereon, and expiration of the legal, has the beſt and undoubted right thereto, and preferable to the ſaid defenders their whole rights and pretences: And the ſame being ſo found and declared, the ſaid defenders to hear and ſee it alſo not only found and declared, by decreet foreſaid, that it ſhall be lawful to, and in the power of the ſaid purſuer, his heirs and ſucceſſors, peaceably to poſſeſs, bruik and enjoy the ſame, ſet, raiſe, uſe, and diſpone thereupon, heritably and irredeemably, and as their own proper lands and heritages, at their pleaſure in time coming; but likewiſe, the ſaid defenders to hear and ſee themſelves

ſelves diſcharged, any ways to moleſt or trouble the ſaid purſuer and his foreſaids, or their tenants, by citations or otherwiſe, in the peaceable poſſeſſion of the ſame, by whatſoever manner of way, in time coming: (5) And therefore, the ſaid pretended bonds, obligations, contracts, diſpoſitions, charters, infeftments, procuratories, and inſtruments of reſignation, precepts and inſtruments of ſaſine, appriſings, adjudications, exemptions, and other grounds thereof, interdictions, inhibitions, with the executions of the ſame, decreets, and haill other writs, evidents, rights, ſecurities, executions, and diligences above ſpecified, called for to be produced, reduced and improven in manner foreſaid, of the dates, tenors and contents above mentioned, or of whatſoever other dates, tenors or contents the ſame be of, ought and ſhould be reduced, retreated, reſcinded, *(here take in all above, from this* (4) *figure, till ye come to this* (5) *figure; with theſe alterations only:* 1. *For theſe words,* to hear and ſee, *ſay,* ought and ſhould, *wherever ye find them: And,* 2. *Whereas above it ſays,* for the reaſons and cauſes following, *and takes them in, ſay ye here,* for the reaſons and cauſes foreſaid, and others, *being needleſs to repeat them twice, and then ſay)* after the form and tenor of the ſaid purſuer his right and infeftment aforeſaid, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points; or elſe, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and reduce, improve, find, decern and declare in manner foreſaid; and if the ſaid defenders fail, and compear not, day and place foreſaid, that ye, meſſengers at arms, (the firſt diet being elapſed), of new again lawfully ſummon, warn and charge ſuch of them as are within the kingdom, perſonally apprehended, on ſix days warning, and ſuch of them as are furth thereof, in manner above ſpecified, upon fifteen days warning, to compear perſonally before the ſaid Lords the —— day of —— thereafter, in the hour of cauſe, with continuation of days, to hear and ſee all neceſſary and lawful probation led and deduced in the ſaid matter, and to give and depone their oaths of verity thereunto, ſo far as ſhall not be proven by writ or witneſſes; with certification to them, if they fail, they ſhall be holden as confeſſed, and decreet given and pronounced againſt them in the ſaid matter, reducing, improving, finding, decerning and declaring in manner foreſaid. According to juſtice, *&c.* to be tabulate the ſaid improbation *(as in the other ſtyle of ſummons of improbation,)* as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

SUMMONS *of Exhibition of Writs.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. of —— That where the ſaid purſuer ſtands heritably infeft and ſeiſed in all and haill —— lying within the ſheriffdom of —— as the infeftment and ſaſine granted to him thereupon, duly regiſtered,

conform to the act of parliament, in itself more fully proports, by virtue whereof, the said pursuer has good and undoubted right to the writs and evidents thereof after specified, *viz.* —— Likeas the other writs and evidents after mentioned, *viz.* —— are also the proper writs and evidents of the said pursuer, and he thereby has sufficient, good and undoubted right and interest to the same, and to call for exhibition, production and delivery thereof, in manner after expressed. *And albeit it be of verity*, that the said pursuer has oft and divers times desired and required the persons after named, *viz.* —— havers in their hands, custody and keeping of the said writs and evidents, (at least who, or one or other of them had, have, or fraudfully have absented, vitiated, lacerated, cancelled, destroyed, or put the same away) to give up and deliver to him the said writs and evidents, haill in themselves, unvitiated, cancelled or destroyed, at least in as good case and condition as they received the same: *Nevertheless*, they not only wrongously refuse, postpone and defer so to do, but also to exhibit the said writs and evidents, before our Lords of council and session, to be seen and considered by them, and to the effect the same may be ordained by their decreet, to be given up and delivered to the said pursuer, to be used and disposed upon by him as his own proper writs and evidents at his pleasure in time coming, conform to his said infeftment, laws and daily practique of this Our realm, heretofore inviolably observed in the like cases, in all points, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn and charge the said —— defenders above named, *&c.* personally, *&c.* on six days warning, to compear, *&c.* to answer at the instance of the said pursuer in the said matter: *That is to say*, The said defenders, or one or other of them, havers in their hands, custody, and keeping of the said writs and evidents, (at least who had, have, or fraudfully have absented, vitiated, lacerated, cancelled, destroyed, or put the same away, as said is) to bring with them, exhibit and produce before the said Lords, the said day and place, in the hour of cause, with continuation of days, the writs and evidents particularly and generally above specified, haill in themselves, unvitiated, lacerated, cancelled or destroyed, at least in as good case and condition as they were in when they received the same, to be seen and considered by the said Lords, and to hear and see the same decerned and ordained, by their decreet, to be given up and delivered to the said pursuer, as his own proper writs and evidents, and to be used and disposed upon by him as such, at his pleasure, in all time coming, conform to his said infeftment and right, laws and daily practique of this Our realm heretofore inviolably observed in the like cases, in all points; or else to alledge, *&c.* With certification to the said defenders, if they fail, the said Lords will proceed in the said matter, and decern therein, in manner foresaid. *(To insert a second diet, and then say.)* According to justice, as ye will answer, *&c.*

This summons, before the act of sederunt, had a bill, and concluded thus, *To be called summarily on two diets of six days warning, because the same being for exhibition and delivery, is privileged of its own nature, and so merits summar process, conform to the Lords their daily practique*

practique and order uſed and obſerved in the like caſes, and their deliverance to be granted thereanent. But the act of ſederunt ordains the ſame, and ſeveral other ſummonſes, to be on ſix days, whether with or without a bill; and ſo I give you no trouble as to a bill.

SUMMONS *of Exhibition at the Inſtance of an apparent Heir* ad deliberandum.

GEORGE, *&c.* To Our lovits ——, Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, *&c.* Whereas it is humbly meant and ſhown to Us by A. B. eldeſt lawful ſon and apparent heir to the deceaſed W. B. of —— That whereas there is an *annus deliberandi* introduced by law, in favours of apparent heirs, and who in that time may adviſe whether to repreſent their predeceſſor in his lands and eſtate, or not; ſo apparent heirs have likeways ſufficient, good and undoubted right and privilege to call for exhibition of all bonds, aſſignations, and other grounds of debts granted by their ſaid predeceſſor, and to take inſpection thereof, and thereby being put in knowledge of the debts and burdens affecting the eſtate, may thereupon conſider and deliberate, whether to enter heir and repreſent, or not: *And true it is*, That the perſons *reſpectivè* after named, pretend to be lawful creditors to the ſaid purſuer's father, in the ſums of money after ſpecified; and likeways pretend to have him bound and obliged, by contract, or other writ in the bargains after mentioned, and to the fulfilling and performance of the ſeveral obligements and conditions after expreſſed, *viz.* —— And in like manner, there was ſeveral debts and ſums of money reſting to the defunct by divers perſons, by bonds, and otherways, which are all in the hands, cuſtody, and keeping of M. D. his relict. *And albeit it be of verity*, That the ſaid purſuer, as apparent heir foreſaid, has oft and divers times deſired and required the forenamed perſons to give him inſpection of the ſaid bonds, contracts, and other grounds of the ſaid debts, as well reſting by, as to his ſaid deceaſed father; and likeways all writs by which he was any ways bound and obliged to them, in any bargains, or other tranſactions, as to the performance whereof his eſtate and heirs may be burdened and affected: *Nevertheleſs*, they not only wrongouſly refuſe, poſtpone and defer ſo to do, but alſo to exhibit and produce the ſame before Our Lords of council and ſeſſion, to the effect he may have inſpection thereof, and thereafter deliberate, adviſe, and conſider, whether he may enter heir, and repreſent the ſaid defunct his father, or not, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid —— defenders, perſonally, *&c.* on ſix days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before the ſaid Lords, the ſaid day and place, in the hour of cauſe, with continuation of days, all bonds, obligations, contracts, and other writs whereby the ſaid deceaſed W. B. was bound and obliged

to them, or any other perſon or perſons, from whom they derive right, either in payment of ſums of money, or performance of bargains, or other facts and deeds; and likeways all bonds, obligements, and other writs in their hands belonging to the ſaid defunct, and whereby any perſon or perſons were obliged to him in payment of ſums of money, or performance of deeds, to the effect the ſaid purſuer, as apparent heir to him, may have inſpection thereof, and thereafter adviſe, deliberate and conſider whether he may enter heir to, and repreſent him in his lands and eſtate, or not, conform to the laws and daily practique of this Our realm uſed and obſerved in the like caſes, in all points; or elſe, *&c.* With certification to the ſaid defenders, if they fail, that ſuch as ſhall not be produced by them *ad deliberandum*, as ſaid is, ſhall never militate againſt, or affect the ſaid defunct his eſtate, or the ſaid purſuer, if he afterwards enter heir to, and repreſent him therein. *(To add a ſecond diet, and then ſay,)* According to juſtice, &c.

This had a bill, before the act of ſederunt; but ſince, as writers pleaſe be at the pains or not.

SUMMONS *at the Inſtance of a Creditor, againſt a Burgh, for ſuffering the Debitor to eſcape out of Priſon.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpectivè*, conjunctly and ſeverally, *&c.* Forasmuch as it is humbly meant and ſhown to Us, by A. B. of ——, That where C. D. of ——, by his bond, dated the —— day of —— 17— years, for the cauſes therein ſpecified, bound and obliged him, his heirs, executors, and ſucceſſors, to have contented and paid to the ſaid purſuer, his heirs and aſſignees, ſecluding executors, the ſum of —— Scots money of principal, with the annualrent thereof from ——, to the term of payment under written, and that betwixt the date foreſaid, of the ſaid bond and the feaſt and term of —— 17— years, without longer delay, with the ſum of —— money foreſaid, of liquidate expences, in caſe of failzie, and annualrent thereafter, during the not payment, in manner ſpecified in the ſaid bond, which was regiſtered in the books of council and ſeſſion, the —— day of —— 17— years; and whereupon the ſaid purſuer raiſed letters of horning, and by virtue thereof, cauſed —— meſſenger paſs, upon the —— day of —— laſt bypaſt, and lawfully command and charge the ſaid C. D. perſonally apprehended, to make payment to him of the ſums of money, principal, annualrents, and expences contained in the ſaid bond, within the ſpace, and under the pains contained in the ſaid letters; and for his contempt and diſobedience, was, upon the —— day of —— thereafter, orderly denounced rebel, and put to the horn, and the ſaid letters, with the executions thereof, duly regiſtered, conform to the act of parliament; and thereafter, the ſaid purſuer raiſed letters of caption at his inſtance, againſt the ſaid C. D. and by virtue thereof, P. C. meſſenger, having apprehended him with caption, upon the —— day of ——, lawfully commanded

and

and charged A. M. one of the baillies of the burgh of ——, perſonally apprehended, and delivered to him a juſt copy of the ſaid letters of caption, to receive him off his hand, being then perſonally apprehended, and put him in ſure ward, firmance, and captivity, within the tolbooth of the ſaid burgh, or others their warding places, therein to remain, upon his own proper charges and expences, ay and while he obtempered and obeyed the command and charge given to him, by virtue of the ſaid letters of horning, and were orderly freed and relaxed from the proceſs of horning therein contained, and that within the ſpace, and with certification ſpecified in the ſaid letters of caption; and accordingly the ſaid baillie, after he had read the ſaid letters of caption, and charge given to him by virtue thereof, he immediately, and in obedience thereunto, received the ſaid C. D. as priſoner from the ſaid meſſenger, and incarcerated him within the tolbooth of the ſaid burgh, where he was booked, and inſtruments taken thereupon in the hands of G. D. notary-public, in preſence of the famous witneſſes therein ſpecified and ſubſcribing, as the ſaid bond, letters of horning, executions thereof duly regiſtered, together with the ſaid letters of caption, and executions of the charge given to the ſaid baillie, to the effect foreſaid, and inſtrument above ſpecified, taken upon the ſaid incarceration, in themſelves more fully proport. *And true it is*, that albeit the ſaid C. D. the debitor, was incarcerated in manner foreſaid, and continued priſoner in the ſaid tolbooth for ſeveral weeks, yet upon the —— day of —— laſt bypaſt, A. M. provoſt, A. H. L. M. G. M. and J. M. baillies of the ſaid burgh, ſuffered the ſaid C. D. to eſcape out of the ſaid tolbooth, at leaſt, the priſon not being ſufficient, he made his eſcape forth thereof, without payment of the debt, being relaxed from the horn, or a charge to put at liberty for that effect; wherethrough, by the laws and daily practique of this Our realm, not only the ſaid magiſtrates *qua* magiſtrates, and their ſucceſſors in place and office, but even themſelves perſonally, and their heirs and repreſentatives, are liable *in ſolidum* for the ſaid debt. *And albeit it be of verity*, that the ſaid purſuer has oft and divers times deſired and required the ſaid defenders, to have made payment to him of the ſaid principal ſum, annualrents thereof bygone and in time coming, and expences above ſpecified, contained in the ſaid bond, horning and caption, and for which the ſaid C. D. was incarcerated in manner foreſaid; nevertheleſs, they wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid A. M. provoſt, A. H. L. M. G. M. and J. M. baillies of the ſaid burgh, for themſelves, and as repreſenting the body and community of the ſaid burgh of —— perſonally, *&c.* on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of ——, and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders not only *qua* magiſtrates, and their ſucceſſors in place and office, but even themſelves perſonally, and their heirs and repreſentatives,

preſentatives, declared and found liable *in ſolidum* to the purſuer, of the ſaid debt; and therefore, decerned and ordained by the ſaid Lords their decreet, to make payment to him of the ſaid principal ſum, annualrents thereof bygone and in time coming, and expences above ſpecified, contained in the ſaid bond, horning, and caption, and for which the ſaid C. D. was incarcerated, as ſaid is, conform to the laws and daily practique of this Our realm, in all points; or elſe, *&c.* With certification, *&c.* the Lords will find, declare, and decern in manner foreſaid. (*Put in a ſecond diet for the more ſecurity*) According to juſtice, *&c.*

(*Needs no bill.*)

SUMMONS *for proving the Tenor of a Bond, and a Concluſion of Payment againſt the Debitor's Heir.*

GEORGE, *&c.* To Our lovits —— Our ſheriffs in that part, and meſſengers *reſpective*, *&c.* Forasmuch as it is humbly meant and ſhown to Us, by A. B. of ——, eldeſt lawful ſon and heir to the deceaſed W. D. of ——, That where the deceaſed M. P. of ——, by his bond dated the —— day of —— 17— years, granted him to have borrowed and received from the ſaid purſuer's father, the ſum of —— Scots money, which ſum, with the annualrent thereof from the date, to the term of payment under written, he bound and obliged him, his heirs, executors, ſucceſſors to him in his lands and heritages, and intromitters with his goods and gear whatſoever, to refund, content, pay, and again deliver to the ſaid deceaſed W. D. his heirs and aſſignees, betwixt and the term of —— 17— years, without longer delay, with the ſum of —— money foreſaid of liquidate expences, in caſe of failzie, together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not payment thereof, after the ſaid term; and upon which bond, there was not only letters of inhibition raiſed, executed, and regiſtered againſt the ſaid M. P. in his own lifetime, at the inſtance of the ſaid W. D. and which inhibition was written by J. D. ſervitor to B. W. writer to the ſignet, and ſubſcribed by his ſaid maſter, but alſo —— ſervitor to J. W. clerk of the bills wrote the deliverance on the bill of the ſaid inhibition thus, *Fiat ut petitur*, becauſe the Lords have ſeen the bond within written; and the Lords paſſed, and the clerk ſubſcribed the ſame, and lies at the ſignet, as the warrant of the ſignet letters of inhibition ſo executed; and ſicklike, the ſaid bond was ſet down in the inventory of the ſaid deceaſed W. D. his perſonal eſtate, as one of the debts reſting to him, and bearing, that the annualrent was only reſting from the term of —— 17— years, albeit the bond was granted many years before; and which inventory was written by ——, who drew the ſame from the bonds themſelves, and read the bonds, to know the ſums and dates; and the diſcharges of the preceding annualrents are in the hands of M. P. now of ——, ſon and heir to the ſaid deceaſed M. P. of ——: Likeas,

when

when the purſuer, after his father's deceaſe, craved the annualrents reſting, he deſired a ſight of the bond, which he obtained, and thereafter ſaid, he thought there was not ſo much annualrent due by a term, and would ſeek out the laſt diſcharge; which, when he had done, he, by his miſſive letter, dated the —— day of —— in anſwer to the purſuer's, told, he was wrong, for the laſt diſcharge was but for the term of —— years, and when money was got in, he would pay the annualrents due: And ſicklike, in the month of —— 17---- years, the purſuer gave in the ſaid bond to —— to raiſe a ſummons at his inſtance, as heir to his father, againſt the ſaid M. P. now of —— as repreſenting his father upon one or other of the paſſive titles, and who promiſed payment, as ſaid is, and which he did, and ſent the bond, with the ſummons incloſed in his letter to the purſuer; and which ſummons was executed, for the firſt and ſecond diet, by —— meſſenger, and called by —— under-clerk, and the proceſs given out with the bond to ſee, by —— advocate (who was employed by the purſuer) his man J. A. to —— advocate, who appeared for the defender, and was returned and inrolled, and thereafter, *caſu fortuito*, amitted and loſt, and cannot be had, after all the ſearch was made that could be; likeas, the writer of the ſaid bond, and who was one of the ſubſcribing witneſſes therein, is yet alive, and knows the truth and reality thereof. *And albeit it be of verity*, that the ſaid bond was extant, and yet amitted and loſt in manner foreſaid, and that the ſaid purſuer has oft and divers times deſired and required the ſaid M. P. now of ——, to ſatisfy the ſaid ſum of ——, with the annualrents, and to accept of a valid diſcharge of the bond, which is ſufficient to exoner him of the debt; yet nevertheleſs, he not only wrongouſly refuſes ſo to do, but alſo will not ſecure the purſuer *aliunde* for the ſame, merely, if poſſible, to defraud him of his juſt debt, becauſe the eſtate is in burden, or to get a conſiderable eaſe, and to favour ſome of his other creditors, againſt whom the ſaid inhibition will militate; wherefore, neceſſary it is for the ſaid purſuer, to have the tenor of the ſaid bond proven, and made up *per teſtes et teſtimonia*, and being ſo made up, the defender decerned (as repreſenting the defunct and debitor his father, by one or other of the paſſive titles, and as he who promiſed payment, as ſaid is,) to make payment to him of the ſaid ſums; and this Our ſummons, directed for that effect, in manner, and to the effect after ſpecified, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid M. P. as heir ſerved and retoured to the ſaid deceaſed M. P. at leaſt lawfully charged to enter heir to him, within forty days, conform to the act of parliament, (*here inſert the other paſſive titles, particularly the promiſe of payment,*) perſonally, or at his dwelling-place, on twenty-one days warning, and all others having, or pretending to have intereſt, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the foreſaid bond now loſt and amitted, made up and proven, by decreet of the ſaid Lords, to be of the tenor following, *viz.* (*here inſert the tenor of an ordinary bond, bearing the borrowing of the money, obligement of payment*,

payment, with annualrent and expences, and date as in the narrative of the inhibition, with a clauſe of regiſtration, and witneſſes according to information, and then ſay) And the ſame being ſo made up and proven, to hear and ſee the ſame decerned and declared, by decreet foreſaid, to be a ſufficient and valid evident and ſecurity to the ſaid purſuer, his heirs and aſſignees, and of as great faith, force, ſtrength, and effect in judgment, and outwith the ſame, and in all caſes and cauſes, yea, improbations themſelves, in time coming, as the principal bond itſelf, were the ſame extant, and not amitted and loſt, *caſu fortuito*, in manner foreſaid; and in like manner, the ſaid defender upon the paſſive titles above ſpecified, or one or other of them, to hear and ſee himſelf decerned and ordained by decreet foreſaid, to make payment to the ſaid purſuer, as ſon and heir foreſaid, of the ſaid ſum of —— money foreſaid of principal, —— money foreſaid of expences, and annualrents of the ſaid principal ſum reſting ſince the ſaid term of —— 17— years, and yearly and termly in time coming, during the not payment thereof, the terms of payment of the ſame being firſt come and bygone, conform to the laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and decern, make up, and declare in manner foreſaid. (*Inſert a ſecond diet, and then ſay*) According to juſtice, as ye will anſwer, *&c.*

Nota, Beſides the ſaid adminicles adduced in this ſummons, there may be caſes of this nature, wherein many more may be adduced, as, the purſuer's advocate's conſultation when he adviſed the matter; the writer, or his man, may have a double or ſcroll of the firſt ſummons; or the purſuer, if not the defenders procurators, or ſome other perſon, may have a juſt double of the bond; or the ſummons might have had a bill, and lying at the ſignet; the clerks or their ſervants, the advocates and their men, or ſome other perſons, might have ſeen the bond, and read it, and the like: which ſhould be all libelled *in ſortiorem et ad veritatem enucliandam.*

(This needs no bill.)

SUMMONS *of proving of a Truſt of Lands in the Perſon of a Chamberlain and Kinſman, for the Behoof of his Maſter, and that* per teſtes et teſtimonia.

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè, &c.* Whereas it is humbly meant and ſhown to Us by J. M. of A. That where, by contract paſſed betwixt the ſaid purſuer and the deceaſed —— Menzies of ——, dated the —— day of —— 17— years, the ſaid deceaſed —— Menzies (for the ſum of 36,000 merks Scots, then paid and to have been paid by the purſuer to him, his heirs and aſſignees, upon requiſition, and likewiſe to his creditors therein named, the way, manner, and at the terms and times therein ſpecified) bound and obliged him, his heirs and ſucceſſors, to ſell, annalzie and diſpone to the ſaid purſuer, his heirs-male and aſſignees whatſoever, or to any perſon or perſons his Lordſhip pleaſed, heritably and irredeemably,

bly, all and haill the lands of Comrie, lying within the parish of —— and sheriffdom of ——, and to infeft and seise them therein by double infefuments, to be holden, and with absolute warrandice, in manner therein mentioned; and conform to the which contract, the said pursuer having partly paid, and partly secured for the price of the said lands, yea, secured for what remained unsatisfied, by an infeftment in his own estate, relative to the said contract, he procured the disposition and rights of the said lands of —— and others, in a blank person's name, because he held simple ward of a subject, and until the pursuer should consider whose name to fill up therein, in case he could not prevail with the superior to have them taxed or feued; and finding little hope that way, after several years forbearance, the pursuer filled up the deceased —— Murray of Arthurstane's (his own kinsman and chamberlain) name therein, as his trustee; but he deceasing by a violent fever, and before the pursuer could have got him denuded, the trust thereby remained, and continued in the person of him and his heirs. *And albeit it be of verity*, That the foresaid right was acquired by the pursuer, the way, manner, and for the causes above specified, and only insert the said deceased —— Murray his name therein, in trust, upon the considerations abovementioned, and for the pursuer's behoof, as said is, and is most clear, evident, and palpable, not only from the pregnant presumptions under-written, but also, from the evidences, adminicles, and other qualifications expressed; and that he has oft and divers times desired and required —— Murray now of Arthurstane, son and heir served and retoured to the said deceased —— Murray of ——, his father, at least lawfully charged to enter heir to him within forty days, conform to the act of parliament, (*here insert the other passive titles, and then say*) to establish the right of the said lands of ——, and others foresaid; in his person; and being so established, to denude himself thereof, and of the mails, profits, and duties of the same, with the teinds thereof, crop 17— years, (being the crop to which the pursuer, by the said contract, was to have, and, by the said disposition, actually had right), and yearly sincesyne and in time coming, and to assign to the pursuer the writs and evidents of the said lands, and others foresaid, and tacks and rights of the said teinds, and right and disposition made to the said blank person, and wherein his said deceased father's name was filled up in trust, in manner foresaid, and all but with warrandice from his own and his father's facts and deeds allenarly; nevertheless, he wrongously refuses, *&c.* And therefore, it ought and should be found and declared, by decreet of Our Lords of council and session, that the filling up of the said deceased —— Murray his name in the said blank disposition, was but a mere trust in his person; for the use and behoof of the said pursuer, and his heirs-male and assignees; and that upon the clear, pregnant, and undeniable grounds and evidences, adminicles and qualifications following, *viz.* 1. By the said contract it is clear, that the said pursuer was the person that acquired the land, and became obliged to the heritor and his creditors for the said 36,000 merks of price: 2. And, *de facto*, by a posterior contract relative to the former, betwixt the pursuer and —— Campbell of Fordie, who was donatar to the said —— Menzies of Comrie his escheat, and thereby

had right to what remained unpaid of the price, Comrie himself having used requisition of the money, and thereby made moveable, and accordingly decreets of general and special declarator obtained, of the date the —— day of —— 17— years, it was found, (after just compt and reckoning,) that there was no more resting at the term of —— 17— years, (of the whole price and annualrent thereof,) but the sum of 10,000 pounds money foresaid, and, for security thereof, the pursuer gave infeftment in an annualrent correspondent, out of his own estate, redeemable by payment of the said sum, and which payment and security the pursuer would never have made or given, if the land acquired had not been for his own behoof: 3. Not only the original writs of the lands and estate acquired, but even the said disposition blank in the name, and both contracts aforesaid, were, since the very subscribing thereof, in the hands of the pursuer, to whom the same were then delivered, and to this day remains so; whereas, had they been the trustee's own evidents and securities, he (and not the pursuer) had been master of them: 4. The very writer of, and witness in the said disposition, know that the acquisition and purchase was made by the pursuer, and that the disposition was delivered to the pursuer (blank in the name), upon the former considerations, of the nature of the holding: 5. It is offered to be proven by famous gentlemen, and witnesses beyond all exception, that at divers trysts and meetings with the Laird of Weem, superior, it was known and public, that the acquisition was the pursuer's, and no less declared to the superior; and when the superior could not be prevailed with, neither to quit the superiority, or yet tax or feu the lands, then the pursuer called for ——, and, in presence of ——, caused him fill up the said deceased —— Murray his name in the said disposition, and declared, in presence of all of them, it was only in trust, and for the pursuer's behoof, and thereafter put up the disposition with the rest of the evidents of the lands, and which he also had by him: 6. The pursuer having appointed the said deceased —— Murray his chamberlain, for many years before the said acquisition, how soon the acquisition was made, the lands acquired, and the duties thereof were added to the rental given to the defunct, and in his accompts of intromission with the pursuer's estate, charged himself with, and compted for these, as well as for the rents of his other estate, yea by the space of —— years that he died, and the pursuer in that time granted tacks to several of the tenants, by which they were bound to pay the rents and duties to his Lordship, not the defunct, which could never have been, were they the defunct's lands, and not the pursuer's: 7. It consisted with the defender's own knowledge, that his father had no right or pretence thereto, but a mere trust in his person, for his Lordship's behoof, as said is: And, *lastly*, When the defender's father cleared his affairs, long before his death, and provided his children, and made a clear march betwixt the heirs and other children, he never pretended to any interest in these lands, and even after his decease, the defender cleared the former years accompt of his father's intromission with the pursuer, and therein charged himself with the rents of the acquired lands, and discharged accordingly, and gave up a list of rests, amongst which were some of the tenants of those lands: And by all which evidences, ad-

minicles,

minicles, and other qualifications, there is nothing more clear and apparent, than that the ſaid diſpoſition was a mere truſt in the ſaid defunct his perſon, for the uſe and behoof of the purſuer and his foreſaids, as ſaid is. And the ſame being ſo found and declared, the ſaid defender ought and ſhould be decerned and ordained, upon the paſſive titles above ſpecified, or one or other of them, to eſtabliſh the right of the ſaid lands of ——, and others foreſaid, in his perſon; and, being ſo eſtabliſhed, to denude himſelf thereof, (12) and of the mails, profits and duties of the ſame, with the teinds thereof, crop 17— years, being the crop to which the purſuer, by the ſaid firſt contract, was to have (and by the ſaid diſpoſition actually had) right, and yearly ſinceſyne, and in time coming, in favours of the ſaid purſuer and his foreſaids, and to aſſign the writs and evidents of the ſaid lands and others foreſaid, and tacks and rights of the ſaid teinds, and right and diſpoſition made to the ſaid blank perſon, and wherein his deceaſed father's name was filled up in truſt, in manner foreſaid; and all but with warrandice from his own and his ſaid deceaſed father their facts and deeds allenarly, and that conform to the laudable laws and daily practique of this Our realm heretofore inviolably uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn, and charge the ſaid —— Murray now of Arthurſtane, *nominibus quibus ſupra*, perſonally, or at his dwelling-place, on twenty-one days warning, and all others, *&c.* by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the filling up of the ſaid deceaſed —— Murray his name in the ſaid diſpoſition, was but a mere truſt in his perſon, for the uſe and behoof of the ſaid purſuer and his foreſaids, and that upon the clear, pregnant, and undeniable grounds, adminicles, evidences, and qualifications above ſpecified, all here again holden as for expreſſed, and repeated *brevitatis cauſa*; and that by all which evidences, adminicles, and qualifications, there is nothing more clear and apparent, than that the diſpoſition was a mere truſt in the ſaid defunct his perſon, for the uſe and behoof of the purſuer and his foreſaids, in manner above expreſſed. And the ſame being ſo found and declared, the ſaid defenders, upon the paſſive titles above mentioned, or one or other of them, to hear and ſee himſelf decerned and ordained, by decreet foreſaid, to eſtabliſh the right of the ſaid lands of ——, and others foreſaid, in his perſon: And being ſo eſtabliſhed, to denude himſelf thereof, (*here take in from this* (12) *figure above the will, till ye come to* as is alledged, *and then ſay*) or elſe to alledge, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid. (*Take in a ſecond diet*) According to juſtice, as ye will anſwer, *&c.*

Nota, This ſummons needs no bill: And that albeit, in the calling of the proceſs by the courſe of the roll, the defender renounced to be heir to his father, yet, the purſuer took this ſummons to his probation, as to the truſt; and when the cauſe was adviſed *in preſentia*, the Lords found the truſt ſufficiently proven, and therefore decerned *cognitionis cauſa*;

whereupon adjudication followed in courſe: But a back-bond would have prevented much of this trouble, occaſioned by an implicit faith, and an exuberant truſt by a maſter to a ſervant.

SUMMONS *of Damage and Intereſt.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè, &c.* Foraſmuch as it is humbly meant and ſhown to Us by A. B. of ——, That where, *&c.*

Nota, I find no neceſſity to ſet down here a form or ſtile of this ſummons, there being a neceſſity for as many forms as there are ſubject-matters; only, make a clear narrative or propoſition as to the tranſaction or point of fact; and then from thence in law make a genuine ſubſumption and native concluſion, and muſt be on twenty one days, with a ſecond diet, but needs no bill.

SUMMONS *for removing March-ſtones, againſt the neighbouring Heritors, Raiſers thereof.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè, &c.* Foraſmuch as it is humbly meant and ſhown to Us by A. B. of —— That where the ſaid purſuer ſtands heritably infeft and ſeiſed in all and haill the lands of —— lying within the pariſh of —— and ſheriffdom of —— bounded in manner following, *viz. (here take in the bounding)* as the infeftment and ſaſine granted to him thereupon, duly regiſtered, conform to the act of parliament, in themſelves more fully proport; likeas, not only the ſaid purſuer's predeceſſors, during their lifetime, and by virtue of their rights and infeftments, by themſelves and their tenants, poſſeſſed the ſaid lands, and within the haill bounding above ſpecified, and uſed all acts of property, and particularly by debarring all others therefrom, paſt all memory of man; but alſo the purſuer himſelf, ever ſince C. B. of —— his father his deceaſe, (who deceaſed in the month of —— 17---- years, now by the ſpace of —— years,) by himſelf and his tenants peaceably enjoyed and poſſeſſed the ſame lands, and within the ſaid bounding, as his undoubted and uncontrovertible property, until of late, that G. D. H. M. and W. D. his next adjacent neighbours, by themſelves, and —— their tenants, not only at their own hand, and without any order of law, pulled down and demoliſhed ſome of his old dykes, which were a part of the ancient marches to the eaſt and ſouth, but likeways removed —— march-ſtones, which cleared other parts of the bounding and marches of the ſaid lands to the weſt, and placed the ſame far within his own and predeceſſors old and ancient bounding, and pulled up three march-ſtones, which cleared the marches betwixt him and them to the eaſt, and buried and ſunk the ſame in ſome place where they cannot be found, or carried the ſame away all in the night, and whilſt the purſuer was from home,

home, thereby to diſpoſſeſs the purſuer, and to render his own and poſterity's marches uncertain, and by proceſs of time, to enhance the purſuer's property in leſs or more to themſelves, either in property or commonty; and, in effect, have thereby, and by the deſtruction of beſtial, and otherways, already damnified and prejudged the purſuer in the ſum of —— Scots money, (conform to a particular accompt thereof apart, here holden as for expreſſed *brevitatis cauſa*) and that againſt all law, equity and reaſon. *And albeit it be of verity*, That the ſaid defenders have done wrong, by their illegal acts and encroachments aforeſaid, and that the ſaid purſuer has oft and divers times deſired and required the ſaid defenders, to repair and rebuild (6) the ſaid ancient dykes, ſo unjuſtly caſt down and demoliſhed by them, and that in and upon the ancient lairoch and found, and in as good caſe and condition, and of the ſame height, breadth and length they were formerly of; and ſicklike, to ſet all the march-ſtones, to the number of —— in the ſame individual places where they were of before, and to make payment to the ſaid purſuer of the ſaid ſum of —— money foreſaid of damage, and prejudice already ſuſtained by him, in manner foreſaid, and to deſiſt and ceaſe from doing the ſame, or like acts of violence and encroachments in time coming: *Nevertheleſs*, &c. Wherefore neceſſary it is for the ſaid purſuer, to have this Our ſummons directed at his inſtance againſt them, in manner, and to the effect after ſpecified, conform to the ſaid purſuer and his predeceſſors their ſaid rights and infeftments, immemorial poſſeſſion, by virtue thereof, laws and daily practique of this Our realm uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge the ſaid —— heritors of the next adjacent lands to the ſaid purſuer's, and the ſaid —— their tenants, perſonally, *&c.* on twenty-one days warning, and all others, *&c.* by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified, and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that they have done wrong, in pulling down and demoliſhing the ſaid ancient dykes, and raiſing and removing of the ſaid march-ſtones, and placing ſome of them within the ancient march, and ſinking and burying others of them where they cannot be found, and thereby damnifying and prejudging the ſaid purſuer, in manner foreſaid; and the ſame being ſo found and declared, the ſaid defenders to hear and ſee themſelves decerned and ordained, by decreet of Our ſaid Lords, to rebuild and repair, *(take in the ſubſumption from this* (6) *figure, till ye come to the word* nevertheleſs, *and then ſay)* conform to the ſaid purſuer and his predeceſſors their ſaid rights and infeftments, immemorial poſſeſſion by virtue thereof, laws and daily practique of this Our realm uſed and obſerved in the like caſes, in all points; or elſe, *&c.* With certification, *&c.* the Lords will proceed, and find, decern and declare in manner foreſaid. *(Inſert a ſecond diet.)* According to juſtice, *&c.* *(No bill.)*

Nota, There be ſummons of reduction, improbation and declarator, at the King's advocate's inſtance, and ſometime of the treaſurers for his Majeſty's intereſt, againſt ſubjects, both as

to

to property, forreſtries, caſtles, and the like, and at his and the Lord treaſurer, and treaſurer-depute's inſtance, *ob non ſolutam cautionem*: And there be alſo ſummons of reductions of decreets of parliament; and ſince the firſt are written by the King's writer, and the laſt (albeit by any writer) yet being to be purſued before a parliament, and to be founded on grounds in law (either againſt the ſentence or nullities therein, as to the proceedure or probation, or new and pregnant grounds, which muſt be conſulted by lawyers) I do not meddle with them.

SUMMONS *of* Bonorum *at the Inſtance of a Debitor againſt his Creditors.*

GEORGE, *&c.* Whereas it is humbly meant and ſhown to Us by H. M. merchant in —— That where the ſaid purſuer is daily and continually charged and purſued at the inſtance of the perſons after named, his creditors, for not-payment making to them of the ſums of money after ſpecified, addebted and reſting owing by him to them, in manner after mentioned, each one of them for their own parts, as is after divided, *viz.* —— Likeas the ſaid purſuer is not only incarcerated within the tolbooth of —— at the inſtance of the ſaid —— one of the ſaid creditors, for his ſaid debt, but alſo is arreſted therein by captions, and acts of wardings, at the inſtance of ſeveral others of the ſaid creditors; and in which tolbooth he has remained priſoner ſince the —— day of —— laſt bypaſt, now by the ſpace of ——, and that in great want and neceſſity. *And albeit it be of verity*, That the ſaid purſuer lived ſoberly and virtuouſly theſe many years bygone, and that his preſent poverty and ſad condition in a world, was not occaſioned by any debauchery, or riotous acts of his, but by his great loſs by ſea, and by bad debitors by land, and that his incarceration may well and without doubt, not only render him and poor family miſerable, and his life uncomfortable, but put themſelves beyond all hopes and expectation of ever being paid of their debts, in leſs or more; whereas, were he at liberty, (by the bleſſing of God, and lawful endeavours) he may live, in ſome meaſure, and be in capacity to pay them leſs or more, and by degrees, if not in proceſs of time, to pay them wholly; and, in the interim, is content to make over to them a right and diſpoſition *omnium bonorum*, (which is all that is in his power;) and yet they wrongouſly refuſe, poſtpone and defer to conſent to his liberation, and accept of the ſaid diſpoſition, without they be compelled. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid —— creditors to the purſuer, perſonally, or at their dwelling-places, on ſix days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee themſelves decerned and ordained, by decreet of the ſaid Lords, to accept from him of a diſpoſition *omnium bonorum*, and the purſuer, upon granting thereof, ordained to have ſuſpenſion, containing relaxation and charge, to put at liberty forth of the ſaid tolbooth of —— wherein he remains incarcerated and arreſted, in manner foreſaid; and the defenders, and all provoſts, baillies, ſheriffs, and other judges ordinary within the kingdom,

kingdom, and their deputes, and alſo meſſengers at arms, ordained to deſiſt and ceaſe, and diſcharged from all further charging, apprehending, incarcerating, arreſting, or otherways troubling and moleſting of his perſon, for and upon the account of the ſaid debts, in time coming, conform to the laws and daily practique of this kingdom, uſed and obſerved in the like caſes, in all points. According to juſtice, to be called ſummarily on the ſaid ſimple and one diet of ſix days warning, but any further diet, table, roll, or continuation of other ſummons, becauſe being a poor man's cauſe, is privileged of its own nature, and ſo merits ſummar proceſs, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

Nota, This ſummons muſt have a bill, becauſe it is privileged; and when creditors lived within the city of Edinburgh and ſuburbs, I have ſeen it on twenty-four hours; and the date of the bill muſt be the date of the letters.

SUMMONS *of Reduction, at the Inſtance of a Biſhop, or other Churchman.*

GEORGE, *&c.* To —— Our ſheriffs, *&c. Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge *(leave blank for ten lines)* to whom, and in whoſe favours, or their predeceſſors and authors, the pretended contracts, diſpoſitions, charters, procuratories, and inſtruments of reſignation, and other rights of feu after ſpecified, of the lands and others after mentioned, are alledged made and granted by A. B. biſhop of ——, or by C. D. thereafter biſhop thereof, or by G. D. biſhop of that ſee, or by one or other of them, or others their predeceſſors, biſhops of the ſame, *(leave blank for ſuch perſons as in law muſt neceſſarily be convened, beſides the real defenders)* perſonally, or at their dwelling-places, on twenty-one days warning, and the tutors and curators of ſo many of them as are minors, if they any have, for their intereſts, and all others having, or pretending to have intereſt in the matter under written, by open proclamation at the market-croſs of —— and other places needful, to compear, *&c. (follow the former ſtile till ye come to)* to anſwer at the inſtance of J. by the mercy of God, preſent biſhop of ——, and who is duly and lawfully preſented, admitted, and provided to the biſhopric thereof, haill lands, rents, annual-rents, feu-duties, teind-duties, tack-duties, teinds parſonage and vicarage, manſes, yards, orchards, and other profits, caſualties and emoluments pertaining and belonging thereto, of the crop 17---- years, and thereafter in time coming, during all the days of his lifetime, conform to the gift and patent granted to him by Us, under Our great ſeal, of the date the —— years, and to whoſe great hurt and prejudice the foreſaid pretended contracts, diſpoſitions, charters, procuratories and inſtruments of reſignation, and other rights of feu, above and after ſpecified, are alledged made and granted by his ſaid predeceſſors in the ſaid ſee, in manner after mentioned; and thereby having ſufficient, good and undoubted right and intereſt to call for

exhibition

exhibition and production thereof, and to proſecute, follow forth, and purſue the action of reduction under written, in manner after expreſſed: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before the ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, *(leave blank for the writs, and then ſay)* of the dates, tenors and contents above ſpecified, or of whatſoever other dates, tenors or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, retreated, reſcinded, caſſed, annulled, decerned and declared, by decreet of the ſaid Lords, to have been from the beginning, to be now and in all time coming, null, and of none avail, force, ſtrength nor effect, with all that has followed, or may follow thereupon; for the reaſons and cauſes following: In the *firſt (here inſert the reaſons, and then ſay)* and therefore, the foreſaid pretended contracts, diſpoſitions, charters, procuratories and inſtruments of reſignation, and other rights of feu above ſpecified, of the dates, tenors and contents above mentioned, and called for to be produced and reduced, as ſaid is, ought and ſhould be reduced, retreated, reſcinded, *&c. (Conclude this ſummons according to the former reductions*, uſque ad finem.)

All the former reductions are continued.

There be ſome caſes wherein I think reductions need no continuation, and that is when the reaſon is verified *ſcripto*, and the production ſatisfied by the purſuer himſelf; as, in reductions *ex capite inhibitionis*, where the inhibition is produced with the grounds, as alſo the right craved to be reduced being regiſtered, there is an extract had by the purſuer. There is alſo reductions where the production is ſatisfied, and the reaſons founded upon intrinſic nullities, and reductions for not-payment of the feu-duty, either on the act of parliament, or clauſe irritant in the feu-right, which nothing can purge but payment, offer thereof under form of inſtrument, or arreſtment before irritancy or compenſation; and yet *tempus belli*, inteſtine commotions, depredations, *ſterilitas agri*, (if the feu-duty be great) and the like, will weigh much with the Lords, in point of compaſſion, and oblige them to extend their *nobile officium*, as to time, if not eaſe.

SUMMONS *of Declarator of Redemption.*

GEORGE, *&c.* To —— Our ſheriffs, *&c. Our will is*, and We charge you, that ye peremptorily ſummon, warn, and charge J. M. of ——, maker and granter of the reverſion after ſpecified, and as pretended poſſeſſor of the lands and others after mentioned, perſonally, or at his dwelling-place, on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of G. D. of —— the other party, contracter in the contract of wadſet under written, and in whoſe favours the ſaid reverſion is thereby introduced and conceived, and he fully in power to redeem the lands and others after expreſſed, in manner, and upon payment or conſignation of the ſums of money therein contained, as is particularly therein and hereafter declared, and at whoſe inſtance, the order of redemption after ſpecified, of the ſaid lands and others foreſaid, was lawfully and orderly uſed, proſecuted, and conſummated in manner

manner after rehearſed, and thereby the ſaid purſuer having ſufficient, good, and undoubted right and intereſt to proſecute, follow forth, and purſue the ſaid action of declarator of the ſaid order after ſpecified, in manner after mentioned: *That is to ſay*, The ſaid defender, for the wrongous refuſing, poſtponing, and deferring, freely to renounce, reſign, quit-claim, diſcharge, upgive, overgive, and deliver from him, his heirs and aſſignees, to, and in favours of the ſaid purſuer, his heirs and aſſignees, all and haill the lands of —— lying within the pariſh of —— and ſheriffdom of ——, together with all right, title, intereſt, claim of right, property, and poſſeſſion, as well petitor as poſſeſſor whatſoever, which he or his foreſaids have, or may any ways claim or pretend thereto, or to any part or portion thereof, in time coming, together alſo with all contracts, diſpoſitions, charters, ſaſines, infeftments, procuratories, and inſtruments of reſignation, precepts, and inſtruments of ſaſine, and all other writs, evidences, rights, and ſecurities, made and granted by the ſaid purſuer, to the ſaid defender thereupon, of whatſoever dates, tenors, or contents the ſame be of, and to give up and deliver the ſame to him, as being really ſatisfied, obſerved, kept, and fulfilled in manner under written, to be cut, cancelled, and deſtroyed for ever; which towns, lands, and others above ſpecified, with the pertinents, pertained heritably and irredeemably to the ſaid purſuer, and were wadſet and impignorated by him to the ſaid defender, and his foreſaids, under reverſion always by the ſaid purſuer and his foreſaids, from them by payment, (*here follow the tenor of the reverſion, as to the ſum, term, time, place, and manner of redemption, and days of premonition, and then ſay*) conform to the contract of wadſet paſſed betwixt them thereanent, of the date the —— day of ——, charter and ſaſine following thereupon, and other rights made by the ſaid purſuer to him, relating thereto; the ſaid contract, and reverſion therein contained, being really and truly obſerved, kept, and fulfilled by the ſaid purſuer, conform to the tenor thereof, in all points, in ſo far as the ſaid purſuer, by J. D. his procurator lawfully conſtituted, to the effect after ſpecified, conform to a ſpecial letter of procuratory granted to him, of the date the —— day of ——, paſſed upon the —— day of ——, to the perſonal preſence of the ſaid defender, and lawfully premoniſhed and required him to have compeared within the ſaid kirk of ——, and at that place of the ſame, where the ſaid umquhil J. E. of M. his tomb is ſituated, upon the —— day of —— then next to come, being Whitſunday even; and there, (betwixt the ſun riſing, and down paſſing thereof,) to have received from the ſaid purſuer, or his lawful procurators in his name, the ſaid ſum of ——, for which the lands and others foreſaid, were wadſet and impignorated; and likewiſe by the ſaid reverſion, declared, upon payment thereof, redeemable, as ſaid is; and that for the lawful redemption, looſing, and out-quitting from him and his foreſaids, of the ſame, and to have heard and ſeen the foreſaid reverſion duly obſerved, kept, and fulfilled by the ſaid purſuer, and his ſaid procurator in his name, conform to the tenor thereof in all points; and thereupon, the ſaid defender to have renounced the ſaid lands, and others above wadſet, with the pertinents, together with the wadſet rights and infeftments of the ſame above ſpecified,

made and granted by the ſaid purſuer to him thereupon, in manner above expreſſed, and to have granted the ſame, lawfully redeemed, looſed, and out-quited, by payment of the foreſaid ſums, and to have given up and delivered to the purſuer, the haill contracts, infeftments, and other rights of the ſaid wadſet, to be cancelled and deſtroyed, with warrandice, in manner ſpecified in the ſaid contract, conform to the tenor thereof alſo in all points: Likeas, conform to the ſaid premonition ſo made, compeared within the ſaid —— kirk, and at the ſaid place thereof, where the ſaid tomb is ſituated, the ſaid J. D. as procurator lawfully conſtituted by the ſaid purſuer, to the effect after ſpecified, conform to the letter of procuratory granted to him thereanent, upon the ſaid —— day of ——, being Whitſunday-even, and there produced and exhibited openly the ſaid contract of wadſet, containing the foreſaid reverſion paſſed betwixt the ſaid purſuer and the ſaid defender, anent the hypothecation of the ſaid lands and others foreſaid, in manner, and of the date above expreſſed, with the letter of procuratory granted by the ſaid purſuer, to the ſaid J. D. for making the ſaid premonition, and uſing the ſaid order of redemption, and inſtruments of premonition taken thereupon, in the hands of —— notary-public, dated the ſaid —— day of ——, together alſo with the other letter of procuratory above mentioned, granted to him by the ſaid purſuer, for his compearing the ſaid Whitſunday-even, within the ſaid kirk, to the effect after ſpecified, and cauſed the ſaid contract, reverſion, procuratories, and inſtrument, be publicly read; and thereafter, the ſaid day, within the ſaid kirk, and at the place thereof above deſigned, cauſed produce, number, and down-tell the ſaid ſum of ——, for which the ſaid lands were wadſet, and thereupon alſo declared by the ſaid reverſion redeemable; and after production and numeration thereof, declared, that according to the power granted him, he was then moſt willing and ready to offer, and *de facto* did then really offer the ſaid ſum of —— (being all that was contained in the ſaid reverſion, and thereby due,) to the ſaid defender, or any others in his name, ſufficiently by him authoriſed and impowered, that would compear and accept thereof, and thereupon, and in ample form, renounce the ſaid wadſet lands and rights, and grant the ſame lawfully redeemed, and deliver up the ſaid contract and infeftment, conform to the ſaid reverſion in all points; but nevertheleſs, and notwithſtanding thereof, the ſaid defender, nor none in his name ſo impowered, compeared for that effect: And therefore, the ſaid J. D. procurator foreſaid, (after he had attended and remained within the ſaid kirk, till the down-paſſing of the ſun, and finding none compear to receive the ſaid ſums, and grant the ſaid lands redeemed, as ſaid is,) paſſed to the perſonal preſence of ——, preſent treaſurer of Edinburgh, and after he had reſumed the whole matter above written to him, offered to conſign in his hands the ſaid ſum of —— to be forthcoming to the uſe, utility, and behoof of the ſaid defender, his heirs and aſſignees, conform to the ſaid reverſion, and upon the peril of the conſigner, which he abſolutely refuſed to accept of, whereupon the ſaid procurator, incontinent thereafter, paſſed to the dwelling-houſe of ——, preſent dean of guild of Edinburgh, and diligently ſearched and inquired for him, to have conſigned the ſaid ſum in his hands, to

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be forthcoming in manner foresaid, and upon the consigner's peril, but he could not be found to that effect, his servants faithfully declaring, he was not within, and that they knew not where he was, or might be had; wherefore, the said procurator passed to the personal presence of ——, and consigned the same in his hands, as in the hands of a sufficient and responsal gentleman, who received the same from the said procurator, to be forthcoming in manner, and to the person, and upon the peril above specified; and in respect thereof, the said procurator, upon the whole premisses, took instruments, and protested, that the said lands and others above wadset, with the pertinents, might be holden as lawfully redeemed, loosed, and outquitted by the said pursuer, from the said defender and his foresaids, in all time coming, and that the foresaid reversion, and haill contents thereof, were really and truly observed, kept, and fulfilled conform to the tenor thereof in all points, as the said contract of wadset, reversion, procuratories, instruments of premonition and redemption, under the hand of —— notary-public, in themselves more fully is expressed: To hear and see it found and declared, that the defender has done wrong; and therefore, the said defender to hear and see it also found and declared, by decreet of Our said Lords of council and session, that the foresaid lands and others above wadset, with the pertinents, are lawfully redeemed, loosed, and outquitted from him and his foresaids, by the said pursuer, in manner, at the time, and by the real offer and consignation of the foresaid sum, as is above expressed; and that the foresaid reversion is really and truly observed, kept, satisfied, and fulfilled by the said pursuer, to the said defender, conform to the tenor thereof, in all points: And the same being so found and declared, the said defender to hear and see himself decerned, by decreet foresaid, to grant and acknowledge the said lands and others above wadset, with the pertinents, to be lawfully redeemed, loosed, and outquitted from him and his foresaids, by the said pursuer, in manner, and at the time above specified; and for that effect, to renounce, quit-claim, resign, discharge, upgive, overgive, and deliver the same, with all right, title, interest, kindness, good will, and others whatsoever, he has, or can pretend thereto, together with all contracts of wadset, charters, sasines, infeftments, procuratories, and instruments of resignation, precepts, and instruments of sasine, and other writs, evidents, rights, and securities, made and granted to him by the said pursuer, of, upon, or concerning the same, and to give up and deliver the said writs and evidents to the said pursuer, to be cut, cancelled, and destroyed for ever; so that it may and shall be leisome and lawful to the said pursuer and his foresaids, and their tenants, servants, and others in his name, to enter to the peaceable possession, bruiking, and joycing thereof, setting, raising, occupying, labouring, manuring, using, and disponing thereupon, and that he has present, full, and free regress, ingress, and access thereto, sicklike, in the same manner, and as freely in all respects, as if the same had never been wadset or hypothecated by the said pursuer, to the said defender and his foresaids, in manner above written; or else to alledge, *&c.* With certification, *&c.* According to justice, *&c.*

(Needs no bill.)

These declarators of redemption are on twenty-one days; but being verified *instanter*, needs o continuation.

SUMMONS *of Declarator of the Privileges of the College of Juſtice, againſt the Good Town of Edinburgh.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuch as it is humbly meant and ſhown to Us, by S. R. S. of L. advocate, and preſent dean of faculty of Our college of juſtice, and S. J. G. of ——, one of Our clerks of ſeſſion, and A. L. writer to Our ſignet, for themſelves, and in name and behalf of the whole advocates, clerks of ſeſſion, writers to Our ſignet, and remanent members of Our ſaid college of juſtice, That where the purſuers being members of the ſaid college of juſtice, and privileged from all acts and juriſdiction of Our burgh of Edinburgh, and all execution thereupon, which is only proper to be exerciſed over their own burgeſſes, and ought no ways to be extended to the ſaid purſuers, who in their ſtations are only anſwerable to Our Lords of ſeſſion, in caſe of any miſdemeanours, or ground or cauſe for civil ſuits, and whoſe eſtates and fortunes cannot be burdened and affected (far leſs their perſons ſeized upon and impriſoned) by any act, verbal warrant, decreet or authority of the magiſtrates and town-council of Our ſaid burgh of Edinburgh; and yet notwithſtanding, the ſaid town-council and magiſtrates thereof, have taken upon them of late, to exerciſe power and juriſdiction over and againſt the purſuers, without reſpect to the privileges and immunities granted to, and introduced in favours of Our ſaid college of juſtice, and members thereof, and that moſt unjuſtly, in the particulars following, *viz.* (*here inſert the particulars*). *And albeit it be of verity*, that the ſaid purſuers have oft and divers times deſired and required the ſaid magiſtrates to deſiſt and ceaſe from all further exercing of any power or juriſdiction over them, their fortunes and eſtates, as privileged perſons, and members of Our college of juſtice, and who conſequently are only in ſubordination to, and under the power and juriſdiction of Our ſaid Lords of council and ſeſſion, nevertheleſs, they wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled: And therefore, it ought and ſhould be found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the magiſtrates and town-council of Our ſaid burgh of Edinburgh, have done manifeſt wrong and injuſtice, by proceeding againſt the ſaid purſuers, and exercing power and juriſdiction over them, in manner, and in the particulars above ſpecified; and the ſame being ſo found and declared, they and their ſucceſſors in place and office, ought and ſhould be decerned to deſiſt and abſtain from doing the like, or exercing any power or juriſdiction over them, or their ſucceſſors, in their ſtations, in their perſons, fortunes, or eſtates, in time coming; and the ſaid purſuers and their ſucceſſors in their ſtations, as ſaid is, (as being members of Our ſaid college of juſtice,) ought and ſhould be declared free thereof, and not

not tied or obliged to give obedience to any of their decreets, acts, or ordinances in times coming, conform to the undoubted and incontrovertible privileges of Our said college of juſtice, and haill members thereof, in all points, as is alledged. *Our will is*, and We charge you, that ye lawfully ſummon, warn, and charge the provoſt and baillies of Our ſaid burgh of Edinburgh, preſent or to come, for themſelves, and as repreſenting the haill body and community thereof, in manner following, *viz.* ſo many of them as are within this realm, the time of the citation, perſonally, or at their dwelling-places, on twenty-one days warning, and ſo many of them as are then forth thereof, by open proclamation, at the market-croſs of Edinburgh, pier and ſhore of Leith, on threeſcore days warning, and alſo them, and all others having, or pretending to have intereſt in the matter, by open proclamation at the market-croſs of Edinburgh, and other places needful, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuers, for themſelves, and in name and behalf of the haill remanent advocates, clerks, writers to Our ſignet, and remanent members of Our college of juſtice, in the ſaid matter: *That is to ſay*, The defenders to hear and ſee it found and declared, by decreet of Our ſaid Lords, that they and the town-council of Edinburgh, have done manifeſt wrong and injuſtice, by proceeding againſt the ſaid purſuers, and exercing power and juriſdiction over them, in manner, and in the particulars above ſpecified; and the ſame being ſo found and declared, to hear and ſee themſelves, and their ſucceſſors in place and office, decerned and ordained to deſiſt and abſtain from doing of the like, or exercing any power or juriſdiction over them, in their perſons, fortunes, or eſtates in time coming; and the ſaid purſuers and their ſucceſſors in their ſtations, as members of Our college of juſtice, be declared free thereof, and not tied or obliged to give obedience to any of their acts, decreets, or ordinances for the future, conform to the undoubted and incontrovertible privileges of Our ſaid college of juſtice, and haill members thereof, in all points; or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to them, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern, and declare in manner foreſaid. According to juſtice, and for the coſts and ſkaiths, *&c.* to be called on the reſpective diets, without any further diet, table, roll, or continuation of other ſummons, becauſe the foreſaid action is acceſſory to Our acts of parliaments, councils, and ſederunts, conſtant practique and cuſtoms of this Our realm, follows and depends thereupon, and is a part of the execution thereof, and ſo merits ſummar proceſs, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.*

Ex deliberatione Dominorum Concilii.

There was a ſuſpenſion raiſed againſt the town, in the matter aforeſaid, and the ſame, and declarator diſcuſſed in favours of the whole members of the college of juſtice.

SUMMONS

SUMMONS *of Declarator of the Privileges of the Bowers, Slaters, and other Trades in* Mary's *Chapel, againſt the Wrights and Maſons of* Edinburgh, *who are in one Society and Incorporation, albeit of divers Arts.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by A. H. bower, burgeſs of Edinburgh, J. T. painter, A. C. ſlater, W. T. glaſier, —— coopers, —— plumbers, —— ſieve-wright, and —— upholſterer, burgeſſes of Our ſaid burgh, That where, theſe divers years bygone, paſt all memory of man, it has been the laudable cuſtom and practice in this Our city of Edinburgh, (towards the better ruling and gubernation of the affairs of the ſame, and before the election and creation of the provoſt, baillies, dean of guild, treaſurer, and council of the ſame, upon the —— day of ——, being —— days before each Michaelmas), for the fourteen deacons within the ſaid burgh, *viz.* deacons of the ſurgeons, goldſmiths, ſkinners, ſpurriers, hammermen, wrights, maſons, taylors, baxters, fleſhers, cordiners, webſters, waukers and bonnet-makers, (and of which, maſons and wrights, and their incorporation, fraternity and deaconſhip, bowers, coopers, glaſiers, ſlaters, painters, upholſterers, plumbers, and ſieve-wrights, have been, and are ſtill holden and reputed as real members, to all intents and purpoſes), to give in to the council of Edinburgh a liſt of ſix perſons of each ſociety, of all the ſaid deaconſhips, to the effect the magiſtrates and council of Our ſaid burgh may either nominate and appoint three of the ſaid ſix, or otherways three of their own chuſing out of the haill incorporation, to be ſet down in a new liſt, to be given in by the ſaid magiſtrates and council, to the ſaid reſpective deaconſhips; and out of either of which two threes, the deacons of the reſpective trades for the enſuing year were only choſen, by the reſpective incorporations; and the deacons ſo choſen by them, being preſented to the council, were accordingly authoriſed by them. Likeas, in order to the ſaid venerable and laudable cuſtom, there being divers debates and controverſies betwixt the merchants and trades of Our ſaid burgh, anent the matter and manner of election of magiſtrates, deacons, and other members within the ſaid city, and gubernation of the affairs thereof, the ſame was ſubmitted and comprimitted to certain gentlemen, as arbitrators, and to his ſacred Majeſty Our grandfather King James VI. of ever-bleſſed memory, as odſman and overſman mutually choſen by both parties, and who, by their decreet-arbitral given and pronounced by them in the ſaid matter, upon the 22d day of April 1583 years, (amongſt divers other circumſtances and determinations therein,) decerned and ordained, That the fourteen deacons of craft ſhould be firſt choſen, and that the old deacons ſhould ſtand and continue until the third council day before the old time of election of the new council, which was on Wedneſday preceding the feaſt of Michaelmas; and upon the which third council day, the provoſt, baillies, and council then ſtanding, and from thenceforth their ſucceſſors in place and office, ſhould call in before them the ſaid deacons of crafts,

crafts, and require their opinion and judgment of the beſt and worthieſt of their crafts, and nominate and leet three perſons, of the moſt diſcreet, godly, and qualified of every one of the ſaid fourteen crafts, moſt expert handy-labourers of their own crafts, burgeſſes and freemen of the burgh, and deliver their names to the deacons, every one according to their crafts; and which deacons (on the morrow thereafter) are ordained to convene and aſſemble their crafts, and every craft by themſelves, furth of the ſaid three names to elect a perſon who ſhall be their deacon for that year; and, upon the next council-day after the ſaid election, the old deacons, with ſome of the maſters of their craft, to preſent the new deacons to the council, who are ordained to authoriſe them in their office, in manner ſpecified in the ſaid decreet-arbitral; conform whereunto, and laudable cuſtom formerly uſed and obſerved in Our ſaid city, the deacons and incorporation of the ſaid wrights and maſons having, upon the —— day of —— inſtant, met and convened within their ordinary meeting-place, and given in a liſt to the council of ſome of their number, towards the election of two new deacons for the ſaid incorporation of maſons and wrights the enſuing year, the magiſtrates and council were pleaſed, according to their privilege, laudable and ancient cuſtom, to nominate none of the ſaid liſt, but on the contrary, gave in a liſt of their own nomination and chuſing, *viz.* the ſaid A. H. G. H. wrights, and the ſaid W. T. glaſier, for the wrights, and J. H. and J. C. maſons, and A. C. ſlater, for the maſons, all ſix members of the ſaid maſons and wrights their houſes and incorporation, as perſons ſufficiently known to the council, to be worthy, godly, and qualified, and out of which number the ſaid incorporation ought to have choſen two deacons for the enſuing year; but theſe denominated wrights and maſons, (albeit only two crafts of nine or ten more in that incorporation,) after the houſe was chapterly convened, the matter moved, and liſt preſented, (aſſuming to themſelves alone the privilege of being deacons, thereby to debar the remanent of their fraternity and incorporation, ſuch as, bowers, coopers, ſlaters, glaſiers, painters, plumbers, ſieve-wrights, and others therein comprehended, by the old and ancient cuſtom, and the ſeal of cauſe), would not only on nowiſe proceed in the ſaid election of deacons out of the ſaid liſt given in to them by the council, and deſerted the ordinary diet of election, but alſo openly and moſt imperiouſly ſpoke and vented, that the ſaid purſuers, and their eight ſeveral crafts, albeit incorporated with them, yet were but pendicles of them, and ſuch as had not, or could not have the privilege, nor ſhould never be deacons of theſe incorporations; thereby to inhance all the government of the incorporation to themſelves, and, being more numerous than the purſuers, to carry all by a high hand and plurality of votes, and to diſpoſe on the revenues belonging to the ſaid incorporation, without their conſent, (at leaſt by plurality of votes) albeit the purſuers and their predeceſſors have been, and are as uſeful and inſtrumental (if not more) in making up the ſaid revenues, as the ſaid maſons and wrights, and yet ever leſs burdenſome to it than they; and in reſpect, as would appear, the whole ſcope and drift of the ſaid maſons and wrights, is nothing elſe than, by proceſs of time, to make the ſaid purſuers privilege (albeit as full, free and ample, as of theſe denominated

minated maſons and wrights, being of, and comprehended within one and the ſame fraternity and deaconſhip, without any exception, reſtriction or qualification), become uſeleſs, extinct and unprofitable, albeit the truth is, as they are and have been of one incorporation, and likewiſe qualified perſons, ſo they have been in uſe at ſeveral times, of being maſters, quarter-maſters, box-maſters, and ſome time in liſt of deaconſhip, as authentick inſtruments taken thereupon in the hands of —— notary-public, at more length proport: And therefore, it ought and ſhould be found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the purſuers and their reſpective crafts and trades, are particular and ſpecial members of the ſaid houſe, ſociety, fraternity, and incorporation of the maſons and wrights, and have been ſo holden, eſteemed, and reputed, theſe divers years bygone, paſt all memory of man, and in the ſeal of cauſe ſo inſert, provided, and comprehended; and that they have been, and are in uſe and wont, as members, of convening, ſitting, and being choſen maſters, quarter-maſters, box-maſters, and in voting in all matters agitated in the ſaid incorporation, and electing and chuſing of deacons; and that they (at leaſt ſome of them) have alſo been leeted for deacons, however not choſen, being carried by the plurality of votes, in favours of theſe denominated maſons and wrights, they being near twice the purſuers number: And likewiſe, the purſuers and their predeceſſors have been, and are concerned in the revenues of the ſaid incorporation, and contribute, give in, and advance to the making up thereof, as well, and as much, if not more, than the ſaid maſons and wrights, and therethrough are equally concerned in the ſecuring, diſtributing, and management thereof: And the ſame being ſo found and declared, it ought and ſhould be alſo found and declared, by decreet foreſaid, that the ſaid purſuers, and their ſucceſſors in their trades and crafts, being burgeſſes and freemen of the ſaid burgh, are, and in all time coming ſhall be holden, called and reputed actual and real members and brethren of the ſaid houſe, fraternity and incorporation of maſons and wrights, with full power to convene, ſit, vote and elect as aforeſaid; and likewiſe, that they are in capacity, and have ſufficient, good and undoubted right, power, liberty and privilege of leeting, and being leeted and choſen boxmaſters and deacons, as well conveners as ordinary, as they ſhall happen from time to time to be nominated and appointed, and to bruik, exerce and enjoy all other ſtations, freedoms and privileges belonging and incumbent to the ſaid incorporations, ſicklike, in the ſame manner, and as freely in all reſpects as any wright or maſon of or within the ſame: And in like manner, for the better government of the affairs of the ſaid houſe and incorporation, and improving of the revenues belonging thereto, (only dedicated and mortified for decayed brethren of the reſpective crafts, and their relicts and children, and other pious uſes), it ought and ſhould be found and declared, by decreet foreſaid, that in all time coming, it ſhall not be lawful to theſe of the ſaid houſe and incorporation, denominated maſons and wrights, by plurality of votes of theſe two crafts, (being near twice the purſuers number, albeit eight crafts), without the ſpecial advice and conſent of the ſaid purſuers and their ſucceſſors, at leaſt of ſo many of each of their crafts as it ſhall pleaſe the ſaid Lords to appoint, to uplift,

diſcharge,

discharge, ware, employ, grant bond or other security for any sums of money, duties of land, or others belonging to the said incorporation, or that may affect the same, by way of debt, whereupon appriſing, adjudication, or other legal eviction may follow, or to diſpoſe of their heritage; and that if any deeds be done without the purſuers and their ſucceſſors their conſent, as ſaid is, the ſame to be null in all time thereafter, according to all law, equity, and conſcience, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn, and charge —— preſent deacon of the ſaid maſons, —— preſent boxmaſter, and —— preſent maſters thereof, —— preſent deacon, and ——, preſent maſters of the ſaid wrights, and —— late deacon, and —— late maſters of the ſaid maſons, and —— late deacon, and —— late maſters of the ſaid wrights, and —— late boxmaſters of the ſaid incorporation of maſons and wrights, comprehending as ſaid is, perſonally, or at their dwelling-places, on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuers in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the premiſſes ſufficiently verified and proven to be of verity; and the ſame being ſo verified and proven, the ſaid defenders, for themſelves and their ſucceſſors, to hear and ſee it found and declared, by decreet foreſaid, that the ſaid purſuers, and their ſucceſſors in the ſaid callings and trades, in all time coming, ſhall be called, holden and reputed actual and real members of the ſaid houſe, incorporation, and fraternity of maſons and wrights, with power to convene, ſit, vote, and elect as aforeſaid; and that they are in capacity, and have good right, liberty and privilege of leeting, and being leeted and choſen deacons, as well convener as ordinary, in manner above expreſſed, and bruik, exerce, and enjoy all other freedoms, ſtations and privileges, due and incumbent to the ſaid incorporation, ſicklike, in the ſame manner, and as freely in all reſpects, as any denominated wrights or maſons, of and within the ſame: And in like manner, that it ſhall not be lawful to thoſe of the ſaid incorporation called wrights and maſons, without conſent of the ſaid purſuers, and their ſucceſſors in their crafts, (at leaſt of ſuch a number of each craft as the ſaid Lords ſhall appoint), to uplift, diſcharge, ware and employ any ſums of money, duties, or others belonging to the ſaid incorporation, or diſpone on their heritage, or contract debt thereupon, whereby the ſame may be affected or evicted, as ſaid is; and if any ſuch deeds be done without their ſaid conſent, the ſame to be null thereafter in all time coming; or elſe to alledge, *&c.* With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid. According to juſtice, and for the coſts and ſkaiths, *&c.* attour, that ye lawfully ſummon, warn and charge ——, to compear before Our ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, to bear leal and ſoothfaſt witneſſing in the ſaid matter, in ſo far as they know, or ſhall be ſpiered at them therein, under all higheſt pain and charge that after may follow, as ye will anſwer, *&c.* *Given under Our ſignet, at Edinburgh, the —— day of ——, and of Our reign the —— year.*

This ſummons I wrote myſelf; and after a moſt litigious debate, the firſt five trades carried the cauſe, and extracted their decreet; and thereafter the action being called, the other three trades carried the cauſe alſo, and found to be a part of the ſociety, and thereby a redoubted right to all the privileges of the houſe; particularly, that theſe eight trades, purſuers, were capable to elect and be elected deacons, *&c.* even as thoſe of maſons and wrights, who are diſcharged ever to call them pendicles thereafter.

Nota, After the ſummons was executed, the eight trades were adviſed, firſt to make offer, (for the good of the poor decayed brethren) that both purſuers and defenders ſhould be at the charge of the plea out of their own caſh, (without encroaching upon the mortified ſtock or revenues) which being refuſed, to proteſt; and was accordingly done, but denied by the maſons and wrights. Whereupon the purſuers petitioned the Lords for ſequeſtration of the box, or expoſed to both, which the Lords would not grant, becauſe a maſon or wright was box maſter, and ſo a diſpoſſeſſion, but declared by a deliverance *in preſentia*, that *in eventu*, they would make the defenders, if they loſt the cauſe, perſonally liable, and the box free; and when the defenders loſt the cauſe, they of conſent paid the purſuers expences by a new impoſition, not out of the box.

SUMMONS *of Declarator of the Nullity of a Feu, upon the Clauſe irritant, contained in the Feu-right.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuchas it is humbly meant and ſhown to Us by G. D. of —— ſuperior of the lands and others after ſpecified, with the pertinents, That where by contract made and paſſed betwixt the ſaid purſuer and H. M. of —— on the one and other parts, of the date the —— day of —— 17·· years; the ſaid purſuer (for the cauſes therein ſpecified) ſold, annalzied, diſponed, and in feu-farm ſet to the ſaid H. M. his heirs and aſſignees whatſoever, heritably, all and haill the lands of ——, lying within the pariſh of —— and ſheriffdom of ——, and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe the ſaid defender, and his foreſaids therein, by charter, containing precept of ſaſine to be holden of the ſaid purſuer, and his heirs and ſucceſſors, as their immediate lawful ſuperiors thereof, for payment of the ſum of —— yearly, at two terms in the year, Whitſunday, and Martinmas in winter, by equal portions, in name of feu-farm, and doubling the ſaid feu-duty the firſt year of the entry of each heir thereto; and with this expreſs proviſion and condition always, likeas, by the ſaid contract, it is ſpecially provided and declared, that in caſe two terms run in the third, and the ſaid feu-duty unpaid, that then, and in that caſe, the foreſaid feu-contract, charter, and ſaſine following thereupon, ſhould from thenceforth become void, null, and of no force, ſtrength nor effect, ſicklike, in the ſame manner, and as freely in all reſpects as if the ſame were never made, granted or ſubſcribed; and that it ſhall be lawful to the ſaid purſuer, and his foreſaids, in the caſe above ſpecified, to enter to the real, actual, and peaceable poſſeſſion of the ſaid lands and others above diſponed, with the pertinents, ſetting, raiſing, uſing, and diſponing thereof at their pleaſure, and that *brevi manu*, at their own hand, without any hazard of intruſion, or peril of ejection to be incurred by them therethrough, and without any neceſſity of declarator of

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the ſaid irritancy, decreet of removing, or other ſentence, to proceed in manner ſpecified in the ſaid contract of feu, as the ſame, of the date foreſaid, in itſelf more fully is expreſſed. *And true it is*, That the ſaid defender is addebted and reſting owing to the ſaid purſuer his ſuperior, the ſaid feu-duty of —— yearly, the years of God after ſpecified, *viz.* of the years —— wherethrough it is moſt clear, evident, and apparent, that not only two terms are run in the third, but many years over and above run together, and thereby the foreſaid irritancy is incurred, and the foreſaid feu-right become void and extinct in all time coming, and thereby the property eſtabliſhed and conſolidated with the ſuperiority in the purſuer's perſon for ever, in manner under written: *And therefore*, It ought and ſhould be found and declared, (6) by decreet of Our Lords of council and ſeſſion, that there is not only two terms run in the third, but alſo many years over and above run together, and the ſaid feu-duty not paid, by the ſpace above ſpecified; and that therethrough, the ſaid defender has contravened the foreſaid contract and proviſion above mentioned therein contained, and incurred the foreſaid irritancy; and the ſame being ſo found and declared, it ought and ſhould be likeways found and declared, by decreet foreſaid, that the ſaid contract and feu-charter, with the ſaline, and all that has followed thereupon, are become extinct, void, and null, and of no force, ſtrength, nor effect, ſicklike, in the ſame manner, and as freely in all reſpects, as if the ſame had never been made, granted, or ſubſcribed; and that it ſhall be lawful to the ſaid purſuer, and his foreſaids, inſtantly to enter to the real, actual, and peaceable poſſeſſion of the ſaid lands and others above diſponed and feued, with the pertinents, lying as ſaid is, and to ſet, raiſe, uſe, and diſpone thereupon, as their own proper heritage, heritably and irredeemably, and declared, eſtabliſhed, and conſolidated with the ſuperiority in their perſon, for ever in all time coming, and that *brevi manu*, at their own hand, without hazard of intruſion, or peril of ejection, to be incurred by them therethrough, and without any neceſſity of decreet of removing, or other ſentence, to proceed after the form and tenor of the ſaid contract, proviſion therein contained, laws and daily practique of this Our realm heretofore inviolably obſerved in the like caſes, in all points, (8) as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid H. M. defender, perſonally, or at his dwelling-place, on twenty-one days warning, and all others, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, (*to conclude* ut ſupra, *from this* (6) *figure, till this* (8) *figure before the will, only for the words*, it ought and ſhould, *in the ſubſumption, ſay in the concluſion*, to hear and ſee,) or elſe to alledge, *&c.* With certification, *&c.* Our ſaid Lords will find, decern, and declare in manner foreſaid. According to juſtice, as ye will anſwer, *&c.* (*No bill.*)

Needs no continuation, being verified *ſcripto*, as to what proper for the purſuer; and it being the defender's to prove payment.

Some uſe to purſue this action by way of reduction, and that either upon the act of parliament, or the clauſe irritant contained in the feu right, if not both; in which caſe, the

clauſe irritant is libelled by way of reaſon of reduction, as ye find in former ſtiles. But I never inclined to that of the declarator, as being more peremptory in its nature, and more favourable for the ſuperior; for when purſued by way of reduction, (eſpecially on the act of parliament) the Lords, *ex gratia*, indulge the favour of purging at the bar to the purſuer; which, in declarators founded upon the contract of feu, they will hardly do, but upon emergents and great conſiderations, as has been formerly ſaid.

SUMMONS *of Declarator of the Expiration of the Legal, Reverſion of an Appriſing.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by G. D. of —— That where, by decreet and proceſs of appriſing, led and decuced within the new ſeſſion-houſe of Edinburgh, before A. B. meſſenger, judge and ſheriff in that part, and his colleagues, upon the —— day of —— 17— years, the ſaid purſuer obtained lawfully appriſed to him, his heirs and aſſignees whatſoever, heritably, from H. M. of —— his heirs and ſucceſſors, and all others having, or pretending to have intereſt in the matter under written, all and haill the lands of ——, lying, *&c.* together with certain reverſions, and other writs and evidents, particularly and generally mentioned in the ſaid appriſing, for payment and ſatisfaction to them of the ſums of money, principal, annualrents, and expences therein contained, extending at the term of —— 17---- years, to the ſum of —— money, and that as for the principal, and of the ſheriff-fee effeiring thereto, extending to the ſum of —— money foreſaid, *ſalvo juſto calculo*, in both the ſaid ſums, as the ſaid decreet and proceſs of appriſing, of the date foreſaid, ſeen and allowed by Our Lords of council and ſeſſion, and by them found orderly proceeded, in manner written on the back thereof, upon the —— day of —— the ſaid year, ordaining the ſaid purſuer, and his foreſaids, to be heritably infeft in the ſaid lands and others above expreſſed, with the pertinents, in manner, and to be holden of the ſuperior therein expreſſed, in itſelf more fully proports; conform whereunto, allowance and approbation written on the back thereof, and charter following thereupon, the ſaid purſuer was, upon the —— day of —— 17--- years, lawfully infeft in the ſaid lands and others foreſaid, as the ſaid charter, and inſtrument of ſaſine following upon the ſame, duly regiſtered, conform to the act of parliament, in themſelves alſo more fully is expreſſed. *And true it is*, That the ſaid purſuer was not ſatisfied within the years of the legal by his ſaid debitor, neither by his poſſeſſion of the ſaid lands and others above appriſed, with the pertinents, and intromiſſion with the mails, duties, cuſtoms, and caſualties thereof, or any other manner of way; wherethrough, and by the laudable laws and acts of parliament of this kingdom, and inviolable practique thereof, and expiration of the ſaid legal, the ſaid lands and others above appriſed, with the pertinents, ought appertain and belong to the ſaid purſuer and his foreſaids, as their own proper lands and heritage, heritably and irredeemably, ever ſince the expiring of the ſaid legal, (which

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was upon the —— day of —— 17— years, and in all time coming, and may now be uſed and diſpoſed upon by them as ſuch, at their pleaſure, for the future;) and for that effect, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid purſuer was not ſatisfied, by his poſſeſſion of, and intromiſſion with the ſaid lands and others above appriſed, with the pertinents, and mails, farms, kains, cuſtoms, caſualties, profits, and duties thereof, or any other manner of way by his ſaid debitor, within the years of the legal, or ſince; and that the continuation of the legal, reverſion of the law formerly competent to him, his heirs and aſſignees, for redemption thereof, is now expired; and that the ſaid lands and others foreſaid, ever ſince the expiring of the legal, (which was at the time above ſpecified,) have become irredeemable, and the ſame now, and in all time coming, appertain and belong to the ſaid purſuer and his foreſaids, as their own proper lands and heritage, heritably and irredeemably. And the ſame being ſo found and declared, it ought and ſhould be alſo found and declared, by decreet foreſaid, that it ſhall be leiſome and lawful to the ſaid purſuer (6) and his foreſaids, peaceably to bruik, enjoy, and poſſeſs the ſame, and to intromit with, and uplift the mails, farms, profits, duties, and caſualties thereof, ſince the expiration of the ſaid legal, and in all time coming, at their pleaſure, and to diſpoſe of the ſame accordingly, after the form and tenor of his ſaid appriſing, allowance, and approbation written on the back thereof, charter and ſaſine following thereupon, laws, acts of parliament, and daily practique of this Our realm, heretofore inviolably uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily, ſummon, warn and charge the ſaid H. M. of ——, againſt whom the ſaid appriſing was led and deduced, in manner foreſaid, perſonally, *&c.* on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation, *&c.* to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords, that the ſaid purſuer was not ſatisfied by his poſſeſſion of, and intromiſſion with the ſaid lands and others appriſed, and mails, farms, kains, cuſtoms, caſualties, profits, and duties thereof, or any other manner of way by his ſaid debitor, within the years of the legal, or ſince; and that therethrough, the legal, reverſion of the law, formerly competent to him and his foreſaids, for redemption thereof, is now expired; and that the ſaid lands, and others foreſaid, ever ſince the expiring of the ſaid legal, which was at the time above ſpecified, have become irredeemable; and that the ſame, now, and in all time coming, appertain and belong to the ſaid purſuer and his foreſaids, as their own proper lands and heritage, heritably and irredeemably. And the ſame being ſo found and declared, to hear and ſee it alſo found and declared, by decreet aforeſaid, that it ſhall be leiſome and lawful to the ſaid purſuer, *(take in from this (6) figure in the ſubſumption, till* as is alledged; *and then ſay)* or elſe to alledge a reaſonable cauſe, *&c.* With certification to the ſaid defenders if they fail, the ſaid Lords will proceed in the ſaid matter, and find, decern, and declare in manner foreſaid. According to juſtice,

as

as ye will anſwer, &c. *(This needs no ſecond diet, all being proven* ſcripto, *viz. The decreet of appriſing, charter and ſaſine, and for the years of the legal, and their expiration by ocular inſpection, and a ſhort computation* clare conſtat. *Needs no bill, and it is only proper for the defender to prove payment within the legal.)*

BILL *of a Summons of Contravention of Lawborrows.*

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth, S. J. N. knight, his Majeſty's advocate, for his Highneſs's intereſt, in the matter under written, and A. M. of S. and K. M. my ſon, parties grieved by the contravention after ſpecified, and thereby having good and undoubted right and intereſt, with concourſe of his Majeſty's advocate, for his Highneſs's intereſt aforeſaid, to purſue the action of contravention after mentioned, in manner after expreſſed, That where we the ſaid A. M. of —— and K. M. having raiſed letters of lawborrows, and therewith cauſed charge A. D. of —— and J. and A. D. his ſons, to the effect under written, upon the —— day of —— laſt bypaſt, they ſuſpended, and therein found H. R. of D. cautioner, ſoverty, and lawborrows for them, and who, by his bond, dated the —— day of —— alſo laſt bypaſt, became acted and obliged in your Lordſhips books, that we the ſaid A. M. and K. M. our wives, bairns, men-tenants, ſervants, cottars, and dependers, ſhould be harmleſs and ſkaithleſs in our bodies, lands, heritages, rooms, poſſeſſions, goods and gear, and that we ſhould on no ways be troubled or moleſted by the ſaid A. D. nor by the ſaid J. and A. D. his ſons, nor by their wives, bairns, men-tenants, cottars, and dependers, nor by no others of their cauſing, ſending, hounding out, command, reſet, aſſiſtance, or ratihabition, nor by no others whom they might ſtop or let, &c. from the date of the ſaid charge given to them, for finding of the ſaid caution, which was the —— day of —— 17— years, nor in time coming, &c. each landed perſon, under the pain of a thouſand merks, and each unlanded perſon, under the pain of four hundred merks; and alſo, for payment to his Majeſty's treaſurer, of twenty merks for each of their eſcheat-goods, in caſe, &c. as the ſaid letters of lawborrows, with the executions thereof, and act of caution aforeſaid, in themſelves more fully proport. Notwithſtanding whereof, *true it is, and of verity,* That the ſaid A. D. of —— and the ſaid J. and A. D. his ſons, by themſelves, &c. of their cauſing, &c. ſince the date of the ſaid charge given to them, for finding of the ſaid caution, have wrongouſly contravened the tenor of the foreſaid act of cautionry, and charge given to them in manner foreſaid, and come in the contrary thereof, by committing the ſeveral deeds of contravention after mentioned, each one of them for their own parts, as is after divided, *viz.* (*here inſert the deeds of contravention, committed by all or each of them, and then ſay,*) wherethrough the ſaid A. D. of —— and the ſaid J. and A. D. his ſons, have

contravened

contravened the foresaid act of caution, soverty, and lawborrows, found by them in manner foresaid, and charge given to them for finding the said caution, and have come directly in the contrary thereof, and thereby they, and the said H. R. of —— their cautioner, are *ipso facto*, and conjunctly and severally liable *in solidum* and payment of the said respective pains and penalties, in manner after expressed; and therefore, it ought and should be declared by your Lordships decreet, that the said defenders have contravened, *&c.* and that thereby they and their said cautioner, have incurred the foresaid particular pains above specified; and the same being so found and declared, by decreet foresaid, they ought and should be decerned conjunctly and severally, to content and pay the foresaid several pains of one thousand merks, for each one of the said landed persons, and four hundred merks for each one of the said unlanded persons, contraveners above mentioned, in manner following, *to wit*, the one equal half thereof to his Majesty, and to his Highness's treasurer-principal and depute, and the other equal half thereof to me, the said A. M. and K. M. my son, as parties grieved by the foresaid particular acts of contravention above expressed, and also decerned to make payment to the said treasurer-principal and depute, of the sum of twenty merks, for the escheat goods of the said persons contraveners, being denounced to the horn, and registered thereat, before finding of caution, after the form and tenor of the said act of lawborrows, laws, acts of parliament, consuetude and practique of this realm, in all points. *Herefore* we beseech your Lordships, that we may have summons of contravention in the premisses, against the said A. D. of ——, and J. and A. D. his sons, and the said H. R. their cautioner, as we please libel, upon two diets, the one of twenty-one, and the other of six days, to be tabulated in the table of his Majesty's actions and causes, and called by the order and privilege thereof, because the foresaid action is accessory to the foresaid act of caution, follows and depends thereupon, and is a part of the execution thereof, conform to your Lordships daily practique and order used and observed in the like cases, and your deliverance to be granted thereanent, and your Lordships answer.

Nota, This action had but one diet before acts of continuation were taken away, but now must have first and second diet, seeing the acts of contravention must be proven, and probably by the defenders oaths.

SUMMONS *of Contravention on the said Bill.*

GEORGE, *&c.* To —— Our sheriffs, *&c.* Forasmuch as it is humbly meant and shown to Us by Sir J. N. knight, Our advocate for Our interest, A. M. of ——, and K. M. his son, parties grieved, That where the said A. M. and K. M. his said son, having raised letters of lawborrows, and therewith having caused charge A. D. of ——, and J. and A. D. his sons, to the effect under-written, upon the —— day of —— last bypast, the said A. D. elder,

and

and the ſaid A. and J. his ſons ſuſpended, and found H. R. of D. cautioner, ſoverty and lawborrows for them, and who, by his bond of the date the —— and —— days of June 17— years, became acted and obliged in Our books of council and ſeſſion, that the ſaid complainers, their wives, bairns, men-tenants, ſervants, cottars and dependers, ſhould be harmleſs and ſkaithleſs in their bodies, lands, heritages, rooms, poſſeſſions, corns, cattle, goods and gear, and that they ſhould on no ways be troubled nor moleſted therein by the ſaid A. D. nor by the ſaid J. and A. D. his ſons, nor their wives, bairns, men-tenants, ſervants, cottars, dependers, nor by no others of their cauſing, ſending, hounding-out, command, reſet, aſſiſtance, nor ratihabition, nor by no others whom they might ſtop or let, directly nor indirectly, in any ſort, from the date of the ſaid charge given to them for finding of the ſaid caution, nor in time coming otherways, nor by order of law and juſtice, under the pains following, *viz.* Each landed perſon under the pain of a thouſand merks, and an unlanded perſon under the pain of four hundred merks; and alſo, for payment to Our treaſurer of twenty merks Scots, for each one of their eſcheat goods, in caſe it ſhould be found by Our Lords of council and ſeſſion, that they were orderly denounced rebels, and put to the horn, for not finding of the ſaid caution, acted in manner foreſaid, in due time, conform to the ſaid charge, as the ſaid letters of lawborrows, with the execution thereof, and act of cautionry, of the date foreſaid, at more length bears: Notwithſtanding thereof, *true it is, and of verity*, That the ſaid A. D. of B. and the ſaid J. and A. D. his ſons, by themſelves, their ſervants, complices, and others in their names, of their cauſing, ſending, hounding-out, command, reſet, aſſiſtance, and ratihabition ſince the ſaid reſpective charges given to them for finding of the ſaid caution, have wrongouſly contravened the tenor of the foreſaid act of cautionry, and charge given to them in manner foreſaid, and has come in the contrary thereof, by committing the ſeveral deeds of contravention after mentioned, each one of them for their own parts, as is after-divided, *viz.* (*here inſert the deeds of contravention committed by all or each of them, and then ſay*) wherethrough the ſaid A. D. of B. and the ſaid J. and A. D. his ſons, defenders foreſaid, have contravened the foreſaid act of caution, lawborrows and ſoverty, and charge given to them for finding of the caution, and has come directly in the contrary thereof, and thereby incurred the ſaid penalties; and therefore, ought and ſhould be found and declared, by decreet of Our ſaid Lords of council and ſeſſion, that the ſaid defenders have contravened the foreſaid charge of lawborrows, given to them in manner foreſaid, and act of caution found by them, to the effect above mentioned, in manner, and at the ſeveral times *reſpectivè* above expreſſed; and that therethrough the ſaid A. D. and J. and A. D. his ſons, and their ſaid cautioner, have incurred the foreſaid particular pains above named; and the ſame being ſo found and declared, the ſaid A. D. of —— elder, and the ſaid J. and A. D. his ſons, and alſo the ſaid H. R. their cautioner above deſigned, ought and ſhould be decerned and ordained, by decreet of Our ſaid Lords of council and ſeſſion, conjunctly and ſeverally, to content and pay the foreſaid ſeveral pains of a thouſand merks Scots for each one of the ſaid landed perſons, contravening

travening as aforesaid, and the sum of four hundred merks money foresaid, for each one of the said unlanded persons, contraveners above specified, in manner following; *to wit*, The one equal half thereof to Us and Our treasurer-principal and depute, for Our use and behoof, and the other equal half thereof to the said A. M. and K. M. his son, as parties grieved by the foresaid particular acts of contravention above mentioned; and also, should be decerned to make payment to Our said treasurer of the sum of twenty merks money foresaid, for the escheat goods of each of the said persons, after the form and tenor of the said act of caution and lawborrows, laws, acts of parliament, and practique and consuetude of this Our realm, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily summon, warn and charge the said A. D. of ——, and J. and A. D. his sons, and the said H. R. their cautioner above designed, personally, or at their dwelling-places, on twenty-one days warning, to compear before Us, and the said Lords of Our council and session at Edinburgh, or where it shall happen them to be for the time, the —— day of —— next to come, if it be lawful; and failing thereof, the next lawful day thereafter following, in the hour of cause, with continuation of days, to answer at the instance of Our said right trusty counsellor S. J. N. Our advocate, for Our interest, in the said matter, and also at the instance of the said A. and K. M. parties grieved by the foresaid contravention, and pursuers above mentioned: *That is to say*, The said defenders to hear and see the premisses sufficiently verified and proven to be of verity; and the same being so verified and proven, to hear and see it found and declared, by decreet of Our said Lords of council and session, that they have contravened the foresaid charge of lawborrows given to them as said is, and act of caution found by them, to the effect foresaid, in manner, and at the several times above mentioned, and that therethrough the said A. D. and J. and A. D. his sons, and their said cautioner above named, have incurred the particular pains and penalties of contravention above named; and the same being so found and declared, the said A. D. elder, and the said J. and A. D. his sons, and also the said H. R. their cautioner above specified, to hear and see themselves decerned and ordained, by decreet of Our said Lords, conjunctly and severally to content and pay the foresaid several pains of one thousand merks Scots for each one of the said landed persons contravening as aforesaid, and the said sum of four hundred merks for each one of the said unlanded persons, contraveners above specified, in manner foresaid; *to wit*, the one equal half thereof to Us and Our said treasurer and treasurer-depute for Our use, and the other equal half thereof to the said A. M. and K. M. his son, as parties grieved by the particular acts of contravention aforesaid, and also to content and pay to Our said treasurer and treasurer-depute the said sum of twenty merks for the escheat goods of each of the said persons, after the form and tenor of the said act of caution and lawborrows, laws, acts of parliament, and practique and consuetude of this Our realm, in all points, or else to alledge a reasonable cause in the contrary, why the same should not be done: With certification to the said defenders, if they fail, Our said Lords will find, decern and declare in manner foresaid. According to ju-

ſtice, and for the coſt and ſkaith ſuſtained and to be ſuſtained by the ſaid purſuers in the ſaid matter; and farther, to anſwer at their inſtance therein, in ſo far as law will, making intimation and certification to the ſaid defenders as effeirs, to be tabulate in the table of Our actions and cauſes, and called by the privilege and order thereof, becauſe the foreſaid action of contravention is acceſſory to the foreſaid act of caution, follows and depends thereupon, and is a part of the execution thereof, and therefore merits ſummar proceſs, conform to Our ſaid Lords their daily practique and order uſed and obſerved in the like caſes, and their deliverance granted thereanent; attour, that ye lawfully ſummon, warn and charge —— to compear, *&c.* with continuation, *&c.* as ye will anſwer, *&c. Given under Our ſignet at —— the —— day of ——, and of Our reign the —— year.*

Ex deliberatione Dominorum Concilii.

SUMMONS *againſt Cutters of green Wood, upon the Act of Parliament.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by P. M. of C. That where, upon the —— day of —— 17— years, the ſaid purſuer was duly and heritably infeft and ſeiſed in all and haill the lands of ——, with the woods and pertinents thereof, lying within the pariſh of —— and ſtewartry of ——, as his infeftment, and ſaſine thereof, at more length proports: Likeas, by an act of parliament made by Our umquhil deceaſed goodſire, in his ſixth parliament, holden at Edinburgh the 20th of October 1579 years, in the 88th act thereof, entitled, *Anent the deſtroyers of planting, haining, and policy*, Our ſaid umquhil deceaſed goodſire, with advice of the three eſtates, ratified, confirmed and approved all and ſundry laudable good acts made by his moſt noble progenitors, and ordained them to take effect, and be put to execution againſt the contraveners thereof thereafter in time coming; with this addition, that whatſoever perſon ſlays, peels, and deſtroys green wood, pulls, ſlays and cuts young growing trees, timber, hained broom, and breaks yards and orchards without good-will of the owner, being purſued, ſhould be puniſhed as follows, *viz.* For the firſt fault, ſhould pay to the owner of the wood or orchard the value of the ſkaith done, with ten pounds; for the ſecond fault, ſhall pay to the owner twenty pounds, with the avail of it that is deſtroyed; for the third fault, forty pounds, with the avail of it that is deſtroyed, and then ſo forth, how oft any perſon fails, the like penalty of forty pounds, to be paid to the owner of the wood, as in the ſaid act of parliament at more length is contained. *And true it is*, That the perſons after nominated have, by themſelves, their ſervants, complices, or others in their names, of their cauſing, ſending, hounding-out, command, reſet, aſſiſtance, and ratihabition, and to their utility and profit, maſterfully and wrongfully cut, hewn down, felled, peeled, ſlayed, deſtroyed, intromitted with, and away-taken, the times after-ſpecified, the green wood and growing trees, with the bark thereof, after-mentioned, of the avails, prices, ſorts and qualities after-expreſſed, each one of them for their

their own parts, as is after-divided, *viz. (here leave blank for a sheet, to libel the times, quantities and prices, and then say)* and which wood so cut, felled, peeled, hewn down, and away-taken by the said defenders, as said is, belonged to the pursuer as his own proper green wood, timber, and trees on the said lands, and were worth, and would have given and rendered to the pursuer, the avails, estimations and prices above mentioned, had the same been suffered to stand and grow, and not unjustly cut, felled, peeled, destroyed, and away-taken, in manner, and at the times above expressed; and they, and each one of them, have manifestly contravened the tenor of Our said acts of parliament, and come in the contrary thereof, in manner, and at the times above-specified, and thereby have incurred the pains above-mentioned therein contained, attour their being liable for the avail and damage: And albeit that the forenamed persons be holden, and ought and should make payment and deliverance to the said pursuer, not only of the avail of the said wood, growing trees, bark, timber, and others foresaid, destroyed, peeled, cut, and away-taken by them, their servants, and others in their names, at their direction, and to their behoof, in manner, and at the times above rehearsed, each one of them for their own parts, as is above divided, extending to the particular quantities, avails and prices above mentioned, but also, ought and should make payment and deliverance to him of the foresaid several pains and penalties mentioned in Our said act of parliament, the first of ten pounds, the second of twenty pounds, and third, and each one of the remanent faults, of forty pounds, incurred by them, and each one of them, through contravening the tenor of Our said act of parliament, in manner, and at the times above rehearsed; nevertheless, they wrongously refuse, postpone, and defer so to do, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn, and charge the forenamed persons, *&c.* to compear, *&c.* to answer at the instance of the said pursuer in the said matter: *That is to say*, The said defenders to hear and see the premisses sufficiently verified and proven to be of verity; and the same being so verified and proven, the said defenders to hear and see themselves decerned and ordained, by decreet of Our said Lords of council and session, to make payment and deliverance to the said pursuer, not only of the avail of the said wood, growing trees, bark, timber, and others foresaid, destroyed, peeled, cut, and away-taken by them, their servants, and others in their names, at their direction, and to their behoof, in manner, and at the times above rehearsed, each one of them for their own parts, as is above divided, extending to the particular quantities, avails, and prices above mentioned, but also, to hear and see themselves decerned and ordained, to make payment and deliverance to him of the foresaid pains and penalties, mentioned in Our said act of parliament, the first of ten pounds, the second of twenty pounds, and the third, and each one of the remanent faults, forty pounds, incurred by them, and each one of them, through contravening of the said act of parliament, in manner, and at the times above rehearsed, or else to shew a reasonable cause in the contrary, why the same should not be done: With certification to them, if they fail, the said Lords will proceed and decern in man-

ner foresaid. According to justice, as ye will answer to Us thereupon, *&c. Given under Our signet at Edinburgh, the —— day of ——, and of Our reign the —— year.*

SUMMONS *of Reduction*, ex capite minoritatis.

GEORGE, *&c.* To —— Our sheriffs, *&c. Our will is*, and We charge you, that ye peremptorily summon, warn and charge M. T. G. of ——, J. G. of ——, *(blank for a quarter of a sheet)* to whom, and in whose favours the pretended bonds, obligations, contracts, dispositions, and other writs and evidents after-specified are alledged made and granted by G. D. of ——, in manner after mentioned, personally, or at their dwelling-places, on twenty-one days warning, and the tutors and curators of so many of them as are minors, if they any have, for their interests, and all others having, or pretending to have interest in the matter under-written, by open proclamation at the market-cross of ——, and other places needful, to compear before Our Lords of council and session at Edinburgh, or where it shall happen them to be for the time, the —— day of ——, if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cause, with continuation of days, to answer at the instance of the said G. D. pursuer, by whom, and to whose great hurt and prejudice, and enorm lesion, the foresaid pretended bonds, obligations, contracts, dispositions, and other writs and evidents above and after specified are alledged made and granted the time of his minority and lessage, in manner after mentioned, and thereby (now after his full and perfect age of twenty-one years complete, *et infra annos utiles*,) having (by the laws, acts of parliament, and constant practique of this realm, introduced in favours of minors, and heretofore inviolably observed,) sufficient, good, and undoubted right and interest to call for exhibition and production thereof, and to prosecute, follow forth, and pursue the action of reduction of the same under-written, *ex capite minoritatis et læsionis*, in manner after-expressed: *That is to say*, The said defenders to bring with them, exhibit and produce before Our said Lords of council and session, the said day and place, in the hour of cause, with continuation of days, the bonds, obligations, contracts, dispositions, and other writs and evidents after-specified, *viz. (here leave blank for as much as may conveniently hold all the writs craved to be produced and reduced, and then say,)* of the dates, tenors and contents above-specified, or of whatsoever other dates, tenors or contents the same be of, to be seen and considered by the said Lords, and to hear and see the same, *ex capite minoritatis et læsionis*, reduced, retreated, rescinded, cassed, annulled, decerned and declared, by decreet of the said Lords, to have been from the beginning, to be now, and in all time coming, null, and of none avail, force, strength nor effect, with all that has followed, or may follow thereupon, for the reasons and causes following: In the *first (here insert the usual reason founded upon the acts of parliament, and then say,)* and therefore, the said pretended bonds, obligations, contracts,

contracts, diſpoſitions, and other writs and evidents above ſpecified, called for to be produced and reduced as ſaid is, of the dates, tenors and contents above ſpecified, or of whatſoever dates, tenors and contents the ſame be of, ought and ſhould, *ex capite minoritatis et læſionis*, be reduced, retreated, reſcinded, *(here conclude according to the former ſtyle of a reduction*, uſque ad finem, *without any alteration; only, every ſummons has its own true date, and that year of the King's reign in which it is written and expede.)*

SUMMONS *of Reduction* ex capite Inhibitionis.

GEORGE, *&c.* To —— Our ſheriffs, *&c. Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge A. B. of ——, to whom, and in whoſe favours the pretended contracts, diſpoſitions, charters, ſaſines, infeftments, and other rights and ſecurities after ſpecified, of the lands, tenements, and others after mentioned, are alledged made and granted by G. D. of —— after inhibition was duly and lawfully raiſed, ſerved, executed and regiſtered againſt him and the lieges, at the inſtance of W. H. of —— in manner, and for the cauſes after expreſſed, and the ſaid G. D. maker and granter of the ſaid pretended writs and evidents, for his intereſt, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have intereſt in the matter under written, by open proclamation at the market-croſs of ——, and other places needful, to compear before Our Lords of council and ſeſſion, *(follow out the former ſtile till ye come to the words)* to anſwer at the inſtance of the ſaid W. H. purſuer, at whoſe inſtance the foreſaid inhibition was duly and lawfully raiſed, ſerved, executed and regiſtered againſt the ſaid G. D. and Our lieges, and to whoſe great hurt and prejudice the foreſaid pretended contracts, diſpoſitions, charters, and other writs and evidents of the lands and others after ſpecified, are alledged made and granted by the ſaid G. D. to the ſaid A. B. after the ſame was ſo raiſed, ſerved, executed and regiſtered, and thereby having ſufficient, good and undoubted right and intereſt, to call for exhibition and production thereof, and to proſecute, follow forth and purſue the action of reduction of the ſame after mentioned, *ex capite inhibitionis*, in manner after expreſſed: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before the ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, the pretended contracts, diſpoſitions, charters, and other writs and evidents after ſpecified, *viz. (here leave blank for the writs, and then ſay)* of the dates, tenors and contents above ſpecified, or of whatſoever other dates, tenors or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame, *ex capite inhibitionis*, reduced, retreated *(follow forth the ſtile of the reduction* ex capite minoritatis, *without any alteration, except theſe two;* 1. *Omit the words*, bonds, obligations. 2. *Whereas the other ſays, after the words*, and therefore, *&c.* ex capite minoritatis et læſionis, *ſay in this*, ex capite inhibitionis, *and ſo conclude.)*

SUMMONS

SUMMONS *of Exhibition of a Bond againſt a Haver thereof in his Cuſtody, and againſt the Granter's Repreſentatives for Payment of the Debt.*

GEORGE, *&c.* To —— Our ſheriffs in that part, *&c.* and meſſengers *reſpectivè*, conjunctly and ſeverally, *&c.* Forasmuch as it is humbly meant and ſhown to Us by A. B. of —— That where the deceaſed C. D. of —— by his bond, dated the —— day of —— 17— years, for the cauſes therein ſpecified, bound and obliged him, his heirs, executors and ſucceſſors to him in his lands and heritages, and intromitters with his goods and gear whatſoever, to have contented and paid to the ſaid purſuer, his heirs, executors or aſſignees, the ſum of —— Scots money, betwixt the date foreſaid, of the ſaid bond, and the term of —— then next to come, without longer delay, with the ſum of —— money foreſaid of liquidated expences, in caſe of failzie, and annualrent, conform to the act of parliament, from the date of the ſaid bond, to the term of payment above written, and yearly, termly and continually thereafter, during the not-payment, as the ſaid bond, of the date foreſaid, in itſelf more fully proports; and which bond was delivered by the purſuer to M. J. H. writer to Our ſignet, for raiſing ſummons thereon, againſt C. D. now of —— as heir, and otherways repreſenting the ſaid deceaſed C. D. of —— granter thereof, (after the days of the general charge raiſed in the ſaid matter were elapſed) and the ſaid M. J. H. having *medio tempore* deceaſed, the ſaid bond, with the ſaid letters of general charge to enter heir, and executions thereof, are now in the hands, cuſtody and keeping of —— his relict, J. H. his ſon, and —— his ſervants, or one or other of them, at leaſt they, or any one or other of them, had, have, or fraudfully abſented, vitiated, lacerated, cancelled, deſtroyed, or put the ſame away. *And albeit it be of verity*, That the ſaid purſuer has oft and divers times deſired and required them, or one or other of them havers thereof, or at leaſt who had, have, or fraudulently have abſented, vitiated, lacerated, cancelled, deſtroyed, or put the ſame away, as ſaid is, to give up and deliver the ſaid bond, general charge, and executions thereof, to the purſuer, as his own proper evidents, haill in themſelves, unvitiated, cancelled and deſtroyed, or in as good condition as they found them: *Neverthelefs*, they not only wrongouſly refuſe, poſtpone and defer to do the ſame, but alſo to exhibit and produce them before Our Lords of council and ſeſſion, to the effect the ſame may be ordained, by their decreet, to be given up and delivered to the ſaid purſuer, as his own proper writs and evidents, in manner foreſaid; neither will the ſaid C. D. now of —— eldeſt lawful ſon and heir ſerved and retoured to the ſaid deceaſed C. D. of —— at leaſt lawfully charged to enter heir to him within forty days, conform to the act of parliament, *(libel the other paſſive titles, as in p. 33. Part 3. and then ſay)* make payment to him of the ſaid ſums contained in the ſaid bond, albeit oft and divers times deſired and required thereto, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the forenamed perſons, *viz.* —— havers in their ſaid cuſtody and keeping of the ſaid bond,

bond, general charge, and executions thereof; at leaſt who, or one or other of them, had, have, or fraudulently have abſented, vitiated, lacerated, cancelled, deſtroyed, or put the ſame away, in manner foreſaid; and alſo the ſaid C. D. of —— *nominibus paſſivis quibus ſupra*, perſonally, or at their dwelling-places, on ſix days warning, to compear, *&c.* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders, or one or other of them, havers in their hands, cuſtody, and keeping of the ſaid bond, general charge, and executions thereof; at leaſt who had, have, or fraudulently have abſented, vitiated, lacerated, or put the ſame away, in manner foreſaid, to hear and ſee themſelves decerned and ordained to exhibit and produce the ſame before the ſaid Lords, haill in themſelves, unvitiated, cancelled, or deſtroyed; at leaſt in as good caſe and condition as they found or received them, to the effect the ſame may be ordained by their decreet, to be given up and delivered to the ſaid purſuer as his own proper evidents; and the ſame being ſo exhibited and delivered to the ſaid purſuer, as ſaid is, the ſaid C. D. now of —— upon the paſſive titles above ſpecified, or one or other of them, to hear and ſee himſelf alſo decerned and ordained, by decreet of the ſaid Lords, to make payment and deliverance to the ſaid purſuer of the ſaid ſum of —— money foreſaid of principal, —— money foreſaid of expences, and annualrent of the ſaid principal ſum, of all years and terms bygone, reſting owing unpaid; and ſicklike, yearly and termly in time coming, during the not-payment thereof, (the terms of payment of the ſame being always firſt come and bygone) after the form and tenor of the ſaid bond, laws and daily practique of this Our realm in all points; or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done; with certification to the ſaid defenders if they fail, Our ſaid Lords will proceed in the ſaid matter, and decern therein in manner foreſaid, *(inſert a ſecond diet on ſix days, becauſe of the exhibition and paſſive titles, and then ſay)* According to juſtice, to be called on two diets of ſix days warning, as ſaid is, becauſe exhibitions are privileged of their own nature, and the debt inſtructed by writ; and as to the paſſive titles, the purſuer is content to refer what is not proven by writ or witneſſes, to the defenders oaths of verity, and ſo merits ſummar proceſs, conform to the ſaid Lords their daily practique and order, uſed and obſerved in the like caſes, and their deliverance granted thereanent, as ye will anſwer, *&c.* *(This ſummons muſt have a bill, and then conclude with)*

Ex deliberatione Dominorum Concilii.

BILL *of Summons of Roup and Sale on the acts of Parliament, where the Debitor is Bankrupt, and ſome of the Creditors infeft, and in Poſſeſſion.*

MY Lords of council and ſeſſion, unto your Lordſhips humbly ſheweth Sir W. C. of C. ſon and heir ſerved and retoured to the deceaſed Sir J. C. of C. my father, That where, *(here deduce the appriſing led at the inſtance of the appriſer, in the third perſon, and date of the allowance, and the defunct's*

funct's right thereto, and then say) conform whereunto, and charter following thereupon under the great seal, dated the —— day of —— 17---- years, the said defunct my father, was upon the —— day of —— 17--- years, lawfully infeft in the said lands and others above appriſed, with the pertinents, and his ſaſine duly regiſtered; likeas I was upon the —— day of —— 17---- years, alſo infeft therein, as heir in ſpecial ſerved and retoured to him, and my ſaſine likeways duly regiſtered, as the ſaid appriſing, rights made to my ſaid father thereof, charter and ſaſine following thereupon, together with the ſaſine in my favours, as heir foreſaid, in themſelves more fully proport. And ſicklike, by the 17th act of the third parliament of King Charles II. of ever bleſſed memory, holden at Edinburgh the 14th day of September 1681 years, his Majeſty and his eſtates of parliament having taken to their conſideration, that when the eſtates and lands of bankrupts were affected with adjudications, compriſings, and other real rights, (exceeding their value) it oft-times falls out, that the creditors do not agree to ſell the lands, whereby ſuch eſtates become ineffectual to many creditors; therefore authoriſed and empowered the Lords of council and ſeſſion (upon a proceſs at the inſtance of any creditor having real right) to cognoſce and try the value of ſuch eſtates, (where the heritor is notoriouſly bankrupt, and the creditors in poſſeſſion of the eſtate,) and to valué the ſame according to the true worth thereof, in its rents, caſualties, rights and holdings, according to the uſe and cuſtom of the country where the lands ly, and to commiſſion perſons to ſell theſe lands and eſtates at the ſaid rates, or more, as can be had for the ſame, with conſent of the debitor, where there is a legal reverſion competent to him, and without his conſent, where there is no legal; and ordained the ſaid ſale to be by publick roup, not being under the rate and price appointed by the Lords of council and ſeſſion, and that the roup ſhould be made after public intimation at the market-croſs of the head-burgh of the ſhire where the lands ly, and at the head-burgh of the bailliary, ſtewartry, or regality, if they ly within ſuch juriſdictions, and at the pariſh-kirks where the lands ly, and at ſix other adjacent pariſh-kirks, to be named by the ſaid Lords of ſeſſion, in manner particularly mentioned in the ſaid act of parliament. *And true it is*, That I am a juſt and lawful creditor to the ſaid deceaſed Sir W. S. of M. and have a real right to the ſaid lands, baronies, and others above mentioned; and that the ſaid Sir W. S. was notoriouſly bankrupt, in ſo far as the creditors were and are in poſſeſſion of his eſtate, and the ſaid Sir W. S. was a rebel, and at the horn; wherethrough it is moſt juſt and reaſonable, that, conform to the tenor of the foreſaid act of parliament, the value of the lands, baronies, and others above written, pertaining to the ſaid umquhil Sir W. S. be cognoſced and tried by your Lordſhips, the way and manner therein preſcribed; and the ſame being ſo cognoſced and tried by your Lordſhips, your Lordſhips ought and ſhould appoint, modify, and determine the price of the ſaid lands, baronies, and others, rents and caſualties, according to the uſe and cuſtom of the ſhires of C. and R. within which the ſame ly; and in order thereunto, Sir J. S. now of M. eldeſt lawful ſon and apparent heir to the ſaid umquhil Sir W. S. of M. his father, haver in his hands, cuſtody and keeping of the writs, evidents, and

rights

rights of the lands and others above rehearſed, ought to exhibit and produce the ſame before your Lordſhips; and the ſaid Sir W. S. his creditors, ought and ſhould exhibit and produce their haill reſpective rights and intereſts, whether bonds, obligations, diſpoſitions, contracts, charters, procuratories, and inſtruments of reſignation, precepts and inſtruments of ſaſine, infeftments of relief and warrandice, and other infeftments of annualrents, or annuities of the ſaid lands or other eſtate, or infeftment therein, granted for payment and ſecurity of money, adjudications, appriſings, inhibitions, hornings, arreſtments, reverſions, back-bonds, aſſignations, tranſlations, diſcharges, or renunciations of reverſions, tacks, and all other writs, evidents, rights and ſecurities, made and granted by the ſaid umquhil Sir W. S. of M. or any other perſon or perſons to his ſaid creditors, or any of them, or to any of their fathers, mothers, grandfathers, grandmothers, great-grandfathers, great-grandmothers, or others their predeceſſors, cedents and authors, to whom they have ſucceeded, or may ſucceed *jure ſanguinis*, or from whom they have right, of, upon, or concerning the lands, baronies, or others above mentioned, or any parts or portions thereof, or any annualrents or yearly duties, to be uplifted forth of the ſame, or for relief of whatſoever debts and engagements, or ſecurity and payment of money, or warrandice againſt incumbrances, or of whatſoever other tenor, nature, or quality the ſaid rights be of, whereby they can burden and affect the ſaid lands, baronies, teinds, caſualties, or rents thereof, and other eſtate aforeſaid, pertaining and belonging to the ſaid Sir W. S. of M. and his foreſaids, and to which the ſaid Sir J. S. has ſucceeded, or may ſucceed, or derive right in manner above expreſſed; and probation ought and ſhould be taken anent the verity of the rental, with the deductions therefrom, and forth of the ſame, of all feu-duties, blench-duties, and other duties in law deductable, and the value and worth of the true rental: And likewiſe, the value and price of lands in that country being proven, and the price being modified by your Lordſhips, as ſaid is, commiſſioners ought and ſhould be nominated and authoriſed by your Lordſhips, to ſell the ſaid lands, baronies and eſtate, at the price which your Lordſhips ſhall determine and ſet upon them, or more if it can be had, from any other perſon or perſons who ſhall offer moſt for the ſame in a publick roup, to be appointed by your Lordſhips for that effect: And in like manner, letters of publication ought and ſhould be directed, by your Lordſhips deliverance, at my inſtance, for intimating to all perſons concerned, that the ſaid lands, baronies, and others above ſpecified, are publickly to be rouped, conform to the ſaid act of parliament, and in the terms thereof, and judicially to be ſold and diſponed by the perſons commiſſioned for that effect by your Lordſhips, to the perſons who ſhall bid moſt therefor, not being below the price put thereon by your Lordſhips; and the ſaid alienation and ſale, upon payment of the price aforeſaid, found and declared to be as valid, effectual, and ſufficient, as if the ſaid Sir J. S. and all the creditors of the ſaid deceaſed Sir W. S. and his predeceſſors, cedents and authors, had ſubſcribed the ſame, and conſented thereto; and the ſaid creditors, upon payment to them of the ſaid price, according as they ſhall be preferred by your Lordſhips, ought and ſhould be de-

cerned and ordained, by your Lordſhips decreet, to diſpone and make conveyance of the reſpective rights of the ſaid lands and eſtate, in favours of the acquirer, his heirs and aſſignees whatſoever, heritably and irredeemably, with ſuch warrandice as your Lordſhips ſhall find juſt, and appoint *in quantum lucrati*; and that they receive of the ſame price by the ſaid preference, for and upon the account of their ſaid rights and pretences thereto; and either to deliver up to the ſaid acquirer and his foreſaids their ſaid rights, (at leaſt to the extent of a ſufficient and legal progreſs,) or judicial tranſumpts thereof, and upon inventory ſubſcribed by both parties, and by which they are to be obliged (and ſo decerned and ordained) to make the principals themſelves forthcoming in all actions and cauſes wherein tranſumpts ſhall not be ſufficient; and the writs and evidents of the ſaid lands and eſtate ought and ſhould be decerned and ordained to be given up and delivered by the ſaid Sir J. S. or others the havers thereof, upon inventory, to the ſaid acquirer and his foreſaids, as their own proper writs and evidents, and to be diſpoſed of by them as ſuch, at their pleaſure thereafter in all time coming, and letters of horning ordained to be directed at the inſtance of the ſaid acquirer and his foreſaids, againſt them for that effect; and the ſaid purchaſer and his foreſaids found and declared, by your Lordſhips decreet, to have right to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and eſtate ſo rouped and adjudged by ſale, as ſaid is, and the ſame adjudged and aſſigned to them by your Lordſhips decreet, of the crop and year of God 17--- years, and haill terms thereof, and yearly and termly thereafter in all time coming; and the tackſmen, tenants, and poſſeſſors thereof, preſent and to come, ought and ſhould be decerned to make payment of the ſame accordingly, and the ſaid acquirer and his foreſaids decerned and ordained, by decreet foreſaid, to be heritably infeft and ſeiſed in the ſaid lands, baronies, and others above-ſpecified, with the pertinents, lying in manner foreſaid; and that in manner following, *viz.* In ſo many thereof as holds of his Majeſty and his royal ſucceſſors, by way of ſignature and compoſition in exchequer, and in ſuch of the ſame as holds of ——, by way of charter, containing precept of ſaſine, in due and competent form, and letters of horning ordained to be directed at the inſtance of the ſaid acquirer and his foreſaids, againſt the ſaid —— ſuperiors aforeſaid, on a ſimple charge of twenty-one days, to be holden the ſaid haill lands, baronies, and others above mentioned, of the ſaid reſpective ſuperiors, ſicklike, in the ſame manner, and as freely in all reſpects, as the ſaid Sir J. S. and the ſaid deceaſed Sir W. S. or any of their predeceſſors or authors held, hold, or might have holden the ſame, at any time before the ſaid roup and ſale; as alſo, the ſaid creditors ought and ſhould be ranked, by your Lordſhips decreet, according to the due courſe of preference, and ordained to be paid out of the ſaid price; and upon their denuding, and making conveyance of their reſpective rights, in favours of the acquirer and his foreſaids, in manner, and with warrandice, as is above expreſſed, and upon their doing and performing what elſe ordained by your Lordſhips decreet, in manner above-rehearſed; and with certification to ſuch of the creditors as ſhall not compear and produce their rights, to the effect their intereſt

tereſt and preference may be cognoſced and determined by your Lordſhips, that they ſhall never be heard to quarrel and impugn the ſaid ſale, or come in the contrary thereof, directly or indirectly, by whatſoever manner of way thereafter, in any time coming; and the ſaid acquirer, obtaining once the decreet of ſale, and making payment of the price, according to your Lordſhips preference aforeſaid, he, or his foreſaids, acquirers of the ſaid lands and eſtate ſo adjudged to them, ſhall no ways be affected or burdened with any other debts, incumbrances, or grounds of eviction whatſoever, that afterwards may appear, and not produced in the ſaid roup, ſale, and ranking. And, *laſtly*, It ought and ſhould be found and declared, by your Lordſhips decreet of roup and ſale aforeſaid, that the ſaid reſpective rights, to be acquired by the ſaid purchaſer from the ſaid creditors, upon payment to them of what is determined to them of the ſaid price, in the ſaid ranking and preference, are and ſhall be without prejudice to them of the ſaid decreet of roup and ſale, and infeftments to follow thereupon, and that the ſaid decreet and infeftments are and ſhall be without prejudice to them of the ſaid other rights, to be acquired from the creditors, as ſaid is; and that it ſhall be ſtill leiſome and lawful to, and in the power of the ſaid purchaſer and his foreſaids, to make uſe of, and bruik, enjoy, and poſſeſs the ſaid lands, baronies, and others above ſpecified, with the pertinents, by virtue of all or either of the ſaid rights, as well conventional as legal, and that conjunctly or ſeverally, and as accumulative or diſtinct rights, in their option, and without any innovation or confuſion of rights. (7) *And albeit it be of verity*, That I am a true and lawful creditor upon the ſaid eſtate, by appriſing, and other real rights, as ſaid is, and that the ſaid Sir J. S. and his ſaid deceaſed father, were and are bankrupts, and his ſaid father denounced and regiſtered at the horn, and the creditors in poſſeſſion, yet can never attain to payment, the debt exceeding the value of the eſtate, nor will the ſaid Sir J. S. or the ſaid creditors, of themſelves, conſent to a ſale, however oft and divers times deſired and required by me thereto, without they be compelled: *Herefore*, I beſeech your Lordſhips, that I may have ſummons in the premiſſes, as I pleaſe libel, for citing the ſaid Sir J. S. eldeſt ſon and apparent heir to the ſaid deceaſed Sir W. S. and —— the creditors of the ſaid Sir J. S. and Sir W. S. and —— the miniſters of ſtate, and —— Lords of the treaſury, for his Majeſty's intereſt, as to ſuch of the ſaid lands and eſtate as hold of his Majeſty, and likewiſe —— ſuperiors of the other lands and others not holden of his Majeſty, perſonally, or at their dwelling-places, on twenty-one days warning, and the tutors and curators, *&c.* and all others having or pretending to have intereſt, *&c.* to compear before your Lordſhips, *&c.* the —— day of ——, *&c.* to anſwer at my inſtance in the ſaid matter: *That is to ſay*, The ſaid Sir J. S. to bring with him, exhibit and produce before your Lordſhips, the haill writs and evidents of the ſaid lands and eſtate, and the ſaid creditors thereupon to bring with them the haill writs, evidents, rights, ſecurities legal and conventional, and grounds of debts and diligences, by appriſings, adjudications, inhibitions, arreſtments, or otherwiſe, that they, their predeceſſors, cedents and authors, had, or have anyways burdening and affecting the ſame lands and eſtate,

of whatſoever dates, tenors, contents, nature or quality the ſame be of, to be ſeen and conſidered by your Lordſhips; and to hear and ſee it found and declared, by your Lordſhips decreet, that *(here take in as above, from after,* And true it is, *to the figure* (7), *with theſe alterations,* viz. *In place of the words,* ought and ſhould be found, *ſpeak of the ingiver of the bill in the third perſon, calling him,* purſuer, and ought and ſhould be adjudged, ought and ſhould be decerned and ordained; *and in brief all alongſt, to ſay in the concluſion,* to hear and ſee, *&c. and after ye come to the* (7) *figure, add,)* after the form and tenor of the ſaid acts of parliament made anent roup and ſale of lands, and preference of creditors, and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, declare, adjudge, prefer and decern in manner foreſaid; *(and thereafter add a ſecond diet, becauſe the rental and value of lands in that country may be proven by the defender's oath, as well as otherways; and if by witneſſes, as the rental muſt, and by heritors adjacent, as the value muſt be; however the rental by the tenants or other witneſſes, the Lords will grant diligence to ſummon them, if they find juſt cauſe for roup and ſale; and then follows,* According to juſtice, as ye will anſwer, *&c. and the date of the bill muſt be the date of the letters, and conclude with,* Ex deliberatione Dominorum Concilii.)

Observations *in the caſe of roup and ſale.*

Nota, When this ſummons of roup and ſale is executed, called, and with the grounds ſeen and returned, and cõmes in by the courſe of the roll, the debate will ariſe, whether there be ground for a roup and ſale, or not, the heritor pretending that he is not bankrupt, that the creditors are not in poſſeſſion, and that the intrinſick value of the eſtate far exceeds the debts, and probably may endeavour to caſt the executions upon nullities therein, and at times may alledge, that all parties concerned are not called, and condeſcended on, and the like. And upon the other hand, the purſuer will endeavour to take off all theſe pretences, and, by clearer evidence, convince the Lords of the juſtice and neceſſity of a roup and ſale; and as the Lords find, ſo they appoint the ſale, or not; and if they find ground for a roup and ſale, they grant diligence to the purſuer to cite the tenants, or other witneſſes, to prove the rental, (unleſs referred to the heritor's oath) and to cite the adjacent heritors to prove the value of lands in that country; and when both by *aviſandum* are found clearly proven, they aſſign a day for the roup and ſale, and betwixt ſuch hours of that day; and nominate one, two, or more of their number, (as the ſubject-matter is of import) as commiſſioners and delegates *ad hunc effectum,* and grant letters of intimation to the purſuer for citing the heritor, and others concerned, at the croſs, and pariſh-churches where the lands ly, and at ſix other adjacent pariſh-kirks, which the Lords, by their act, do name, in the terms of the act of parliament, to compear the days and hours of the roup, and object, and make offer of a higher price than that appointed by the Lords, (which the letters of intimation bear expreſly) that all perſons may know the Lords price, and conſequently what farther length they may go, and be in the greater readineſs; and if all perſons be duly cited, is an abſolute and moſt ſovereign ſecurity to any who love to buy an eſtate at a true value, without taking advantage of the heritor, and deſires to live and die in peace, and to tranſmit his eſtate to his children in ſafety, and without the leaſt ground of fear; for here the wiſdom of the legiſlature has been ſuch, as not only to lay down

down a ſure foundation of a legal conveyance, but alſo ordained the creditors to make conveyance of their rights on the eſtate in favours of the purchaſer, and corroborative of his legal title, and with warrandice from each creditor *in quantum* he receives of the price, and obliged to deliver their rights or judicial tranſumpts: And ſure the heritor, by the Lords juſtice in making a rational price at firſt (and below which no offer can be made) can never expect the like by any voluntary tranſaction; and if by a competition the laſt offer exceed the Lords price, it is ſtill better for the heritor and his creditors; and beyond all peradventure, perſons that make the greateſt offer, do at times pay for their fancy, as well as for the land.

Nota, The Lords at times, and moſt juſtly, grant commiſſion, upon application to ſheriffs, commiſſaries, and knowing perſons, to examine tenants, and other witneſſes, upon the rental, and heritors adjacent to the eſtate craved to be rouped and ſold upon the value of lands in that country, and according to the ſeveral grains of the eſtate, and their quality, whether wheat, barley, rough bear, oats, malt, oat-meal, peaſe, beans, and the like, or what of the rent ſilver, and what caſualties, as mart and mutton, and the like; and what thereof mill-rent, wherein they make diſtinction from the other: But in this caſe of a commiſſion, the purſuer muſt raiſe letters and diligence, (relative to the whole procedure and commiſſion) and by virtue thereof, a meſſenger muſt cite not only the tenants and witneſſes, and heritors, who are to depone upon the rent and value, but alſo the heritor, (whoſe eſtate is to be expoſed to roup and ſale) to compear before the judges by commiſſion, the days therein contained, or left to the judges, that he may compear and object againſt thoſe cited to depone upon the rent or value: And as the judges will proceed and make report to the Lords, whether the heritor compear, or not; ſo the judges by commiſſion, if objections be made, will tranſmit theſe objections with the commiſſion and depoſitions, which we call a report, to the Lords, who determine therein as they find juſt; and thereafter the roup and ſale has place; and the Lords nominated and appointed for the ſaid roup and ſale, meet the ſaid day and hours appointed, and call all parties, and hear all objections, if any be, and thereafter proceed in the roup and ſale; and he that makes the greateſt offer, whether it be the Lords price, or more, is preferred; but after the glaſs is run, there is no more place for any further offer than what is made within the time; and thereafter thoſe Lords cauſe the perſon that offers moſt, ſubſcribe the offer, and find bail to pay the price offered to the creditors, as they ſhall be preferred by the Lords, with intereſt after the term of the purchaſer's entry to the eſtate, during the not-payment. And a report of all the procedure being made to the whole Lords, and finding the ſame orderly proceeded, they ratify and approve thereof, and interpoſe their authority thereto, and adjudge and diſpone the eſtate to the purchaſer and his, in the terms of the act of parliament, and ſummons of roup and ſale; and if any objections be made, they diſcuſs them before extracting the draught: which decreet, and its formality, I leave to the clerks, as extraneous to my deſign.

Nota, A perſon of quality being deſirous to have himſelf extricated of debt, and having ſeveral relations and friends that were moneyed men, entered into a contract with them, whereby each of the friends undertook to pay ſo many debts due to the ſeveral creditors therein mentioned, and to retire the bonds betwixt and a certain day prefixed; and for which the perſon of quality gave each of the friends a locality out of his eſtate for ſome years, and which, at the termination of the years, completely paid both principal and annualrents; and as all the friends were bound to the perſon of quality, ſo they were bound to one another as to their liberation of each man's proportion: And one of theſe gentlemen having ſatisfied what fell to him in proportion, ſo he retired the bonds, with aſſignations blank in the name, until matters were concerted, and the reſt did the like; and thereupon a mutual diſcharge granted by all of them amongſt themſelves, and likeways by the perſon of quality to all of them, in the terms of the contract wherein they entered. And this gentleman having *caſu fortuito* loſt one of the bonds he had retired, and the aſſignation thereto, bearing a conſiderable ſum, beſides many years annualrents; and after his deceaſe

not

not found amongſt his papers, his eldeſt ſon obtained firſt a declaration from the heir and executor of the creditor, and thereafter, upon that and other pregnant grounds in law, purſued a declarator for extinguiſhing the bond and debt; and therein convenes, not only the repreſentatives of the creditor, but alſo the parties contractors in the forementioned contract, that they might be ordained to diſcharge the purſuer, and other repreſentatives of his father, of the ſaid contract and obligements therein contained, upon the father, for payment thereof; and which ſummons follows.

SUMMONS *of Declarator for extinguiſhing a Debt paid, (and the Bond whereof and blank Aſſignation thereto amitted, caſu fortuito) with a Concluſion againſt Perſons (to whom a Gentleman was bound to ſatisfy the Debt, and retire the Bond) to diſcharge the Purſuer of that Clauſe of the Contract whereby his Father was bound for that effect.*

TO —— meſſengers, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by Sir P. M. of O. eldeſt lawful ſon to the deceaſed Sir W. M. of O. and who has right, by aſſignation and diſpoſition from him, to all bonds, obligations, debts, ſums of money, and other goods and gear addebted and reſting owing to him by whatſoever perſon or perſons, or whereunto he had right, or otherwiſe pertaining and belonging to him, by whatſoever manner of way; and which right and diſpoſition is dated the —— day of —— 17— years, and thereby, and otherwiſe, having ſufficient, good and undoubted right and intereſt to proſecute, follow forth, and purſue the action after-ſpecified, in manner, in the terms, and for the ends after-expreſſed; That where the deceaſed M. H. of G. the ſaid deceaſed Sir W. M. of O. J. M. of S. H. M. of L. and P. M. of K. by their obligation, dated the —— day of —— 17— years, mentioning, that they ſtood bound and obliged, partly as principals, and partly as cautioners, conjunctly and ſeverally, for J. M. of A. in the ſeveral ſums therein ſpecified, to the perſons therein mentioned, his L. creditors, extending in the haill the ſaid ſums to —— Scots money, and ſubſuming, that ſeeing the ſaid noble M. had then made real payment to, at leaſt given to them ſufficient ſecurity for the equivalent of the ſaid ſums, extending in haill, as ſaid is, and that to each one of them ſeverally, conform to their proportional parts thereof, therein rehearſed, and that they thereby had undertaken to pay the ſeveral creditors, in manner, and conform to the diviſions therein contained, and whereof the ſaid deceaſed Sir W. M. undertook (including a bond reſting to himſelf,) to pay the ſum of —— money foreſaid, and thereof to pay the ſum of —— money above written, to the deceaſed Sir H. W. of P. due by his L. and —— (either as cautioners for, or conjunct principals with him) to him of principal ſum by bond; and therefore the forenamed perſons, according to their ſaid proportions, obliged them to ſatisfy the ſaid debts, and to deliver up to the ſaid noble M. his heirs and aſſignees, againſt the term of Whitſunday 17— years, the bonds and ſecurities granted by him for the ſaid ſums, or ſufficient diſcharges of the ſaid debts, and to clear off and

ſatisfy

ſatisfy all the bygone annualrents of the ſaid principal ſums preceding Martinmas then laſt, and thereafter in time coming, under the penalty therein expreſſed, attour performance; and which bond is regiſtered in the ſheriff-court books of —— the —— day of —— 17—— years foreſaid, as the ſame in itſelf more fully proports. *And true it is*, That the ſaid deceaſed Sir W. M. of O. did in his own lifetime, for implement and fulfilling of the ſaid bond granted by him, and remanent perſons above named, to the ſaid noble M. in that part thereof relating to the payment of the ſaid debt, reſting by his L. to the ſaid deceaſed Sir H. W. of P. make real payment to the ſaid S. H. of the ſaid ſum of —— money foreſaid of principal ſum, contained in the ſaid bond granted to him by the ſaid noble M. with the haill annualrents thereof, due and contained in the ſaid deceaſed S. W. his obligement aforeſaid, and thereupon retired the ſaid bond granted by his L. and other perſons aforeſaid to him therefore, with an aſſignation thereof, either in the ſaid S. W. his own name, or blank as to the aſſignee; wherethrough the ſaid bond coming in the perſon of the ſaid S. W. or taken by him blank in the aſſignee's name, as ſaid is, and ſo delivered to him, became extinct, and thereby the ſaid S. W. his obligement aforeſaid in favours of the ſaid M. was fulfilled, however the ſaid bond and aſſignation, by the deceaſe of the ſaid S. W. *et caſu fortuito*, be amitted and tint: *And therefore*, It ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid bond was ſatisfied and paid to the ſaid deceaſed Sir H. W. by the ſaid deceaſed Sir W. M. his means, and that by his payment, the ſaid M. and remanent perſons bound with and for him therein, are not only liberated and freed of the ſaid bond and debt, but alſo that the ſaid deceaſed Sir W. M. his obligement in favours of the ſaid M. for payment thereof, was fulfilled: And the ſame being ſo found and declared, the ſaid J. M. of A. ought and ſhould be decerned and ordained, by decreet foreſaid, to exoner and diſcharge the repreſentatives of the ſaid deceaſed Sir W. M. of the ſame, with abſolute warrandice, and other clauſes needful; and likeways —— W. now of P. ſon and heir to the ſaid Sir H. W. to whom the ſaid bond was granted, and the debt therein contained due, and to whom the ſame was truly and really paid accordingly by the ſaid deceaſed Sir W. M. who thereupon retired the ſaid bond, and obtained the ſaid aſſignation thereof from him, either in the ſaid S. W. his own perſon, or blank in the aſſignee's name, in manner foreſaid, for implement and fulfilling of his ſaid obligement to the ſaid M. and clearing with him thereanent, ought and ſhould be decerned and ordained, by decreet foreſaid, to deſiſt and ceaſe from all troubling, charging, purſuing, or any ways moleſting the purſuer, or any of the heirs, or other repreſentatives of the ſaid deceaſed Sir W. M. of O. or yet the ſaid M. and perſons above ſpecified, bound for and with him, or their heirs and executors, for payment of the ſaid principal ſum and annualrent thereof aforeſaid, or any part of the ſame, and alſo to warrant the ſaid M. and other perſons bound for and with him, as ſaid is, and their foreſaids, and the ſaid repreſentatives of the ſaid deceaſed Sir W. M. againſt any other diſcharge, aſſignation, or other right made by the ſaid deceaſed Sir H. W. the creditor, in prejudice of the ſaid repreſentatives of the ſaid deceaſed

Sir

Sir W. M. who truly paid the money, or of the ſaid N. M. and other perſons above named, the debitors, for whom he truly paid the ſame for implement of the ſaid obligement, and that conform to the laudable laws and daily practique of this Our realm heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid J. M. of A. and the ſaid —— W. now of P. ſon and heir to the ſaid deceaſed Sir H. W. and the ſaid —— H. of G. —— M. of S. H. M. of L. and —— M. of K. perſons bound for and with the ſaid J. M. of A. in the ſaid bond, perſonally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have intereſt in the ſaid matter, by open proclamation at the market-croſs of ——, and other places needful, to compear before Our ſaid Lords of council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the —— day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuer, as having right by diſpoſition, and otherways, in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee it found and declared, by decreet of the ſaid Lords of council and ſeſſion, that the ſaid bond was ſatisfied and paid to the ſaid deceaſed Sir H. W. by the ſaid deceaſed Sir W. M. his means; and that by his payment aforeſaid, the ſaid M. and remanent perſons above named, bound with and for him therein, are not only liberate and free of the ſaid bond ſo granted, and debt therein contained, but alſo that the ſaid Sir W. M. his obligement above ſpecified in favours of the ſaid M. of A. for the payment thereof, was fulfilled; and the ſame being ſo found and declared, the ſaid J. M. of A. to hear and ſee himſelf decerned and ordained, by decreet foreſaid, to exoner and diſcharge the repreſentatives of the ſaid deceaſed Sir W. M. of —— of the ſame, with abſolute warrandice, and other clauſes needful; and likeways the ſaid —— W. now of P. ſon and heir to the ſaid deceaſed Sir H. W. (to whom the ſaid bond was granted, and the debt therein contained due, and to whom the ſame was truly and really paid accordingly by the ſaid deceaſed Sir W. M. his means, who thereupon retired the ſaid bond, and obtained the ſaid aſſignation thereof from him, either in the ſaid S. W. his own perſon, or blank in the aſſignee's name, in manner foreſaid, for implement and fulfilling of his ſaid obligement, to the ſaid M. and clearing with him thereanent) to hear and ſee himſelf decerned and ordained, by decreet foreſaid, to deſiſt and ceaſe from all troubling, charging, purſuing, or any ways moleſting the purſuer, or any of the heirs or repreſentatives of the ſaid deceaſed Sir W. M. of O. or yet the ſaid M. and perſons above ſpecified, bound for and with him, or their heirs, and other repreſentatives, for payment of the ſaid principal ſum, and annualrents thereof aforeſaid, or any part of the ſame, and alſo to warrant the ſaid M. and other perſons bound for and with him, as ſaid is, and their foreſaids, and the ſaid repreſentatives of the ſaid Sir W. M. againſt any other diſcharge, aſſignation, or other right made by the ſaid deceaſed Sir H. W. the creditor, in prejudice of the repreſentatives of the

ſaid

ſaid deceaſed Sir W. M. who truly paid the money, or of the ſaid noble M. and other perſons aforeſaid, the debitors, for whom he really paid the ſame, for implement of the ſaid obligement, conform to the laudable laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points; or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, decern and declare in manner foreſaid; and if the ſaid defenders fail, *&c. (here take in the ſecond diet, and then ſay)* According to juſtice, *&c. Given under Our ſignet, at Edinburgh, the —— day of ——, and of Our reign the —— year.* (*Needs no bill.*)

SUMMONS *of Declarator*, L. M. *againſt* J. E. *of* B. *for extinguiſhing a pretended Bailliary and Juriſdiction claimed by the ſaid* E. *over a Part of his Eſtate.*

TO —— Our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: *Our will is*, and We charge you, that ye peremptorily ſummon, warn and charge Our right truſty and well-beloved couſin and familiar counſellor J. E. of B. to whom, or his predeceſſors, cedents and authors, the pretended right of heritable bailliary, or other juriſdiction of the lands, barony, and others after ſpecified, is alledged made and granted, or reſerved, in manner after mentioned, and —— heirs, at leaſt apparent heirs to the ſaid cedents and authors, alledged makers and granters of the ſaid bailliary, or other juriſdictions, or reſervers thereof, in manner following, *viz.* Such of them as are within the kingdom perſonally, or at their dwelling places, on twenty-one days warning, and ſuch of them as are forth thereof, by open proclamation at the market-croſs of Edinburgh, and pier and ſhore of Leith, on ſixty days warning, and the tutors and curators of ſo many of them as are minors, if they any have, for their intereſts, and all others having, or pretending to have intereſt in the matter under written, by open proclamation at the market-croſs of —— and other places needful, to compear before Our Lords of council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the —— day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of Our right truſty and familiar couſin and counſellor J. L. M. heritable proprietor of the lands, baronies, and others under-written, with the pertinents, *viz. (here inſert the lands, and then ſay)* as the inſtrument of ſaſine granted to him thereupon, and of divers other lands and others therein mentioned, dated the —— day of —— 17— years, duly regiſtered, conform to the act of parliament, in itſelf more fully proports; and which ſaſine proceeds upon a charter under the great ſeal, containing precept of ſaſine, dated the —— day of ——, with privilege of a free barony, courts, and amerciaments thereof, herezelds, blood-wits, outfang-thief, infang-

thief, pit and gallows, and other privileges contained in the ſaid charter, as the ſame alſo in itſelf more fully is expreſſed; and alſo to anſwer at the inſtance of Our truſty counſellor Sir G. M. of R. Our advocate for Our intereſt, in the matter after mentioned, and with whoſe concourſe the ſaid J. L. M. purſuer, as heritor foreſaid, and inveſted with the privileges above ſpecified, has ſufficient, good and undoubted right and intereſt to call for exhibition and production of the ſaid defenders their pretended rights of bailliary, or other juriſdictions within the bounds of the ſaid lands, baronies, and others foreſaid, and over the heritors, tenants and poſſeſſors of the ſame, preſent or to come, and to proſecute, follow forth, and purſue the actions of reduction, improbation, and declarator thereof under written, in manner after rehearſed: *That is to ſay*, The ſaid defenders to bring with them, exhibit and produce before Our ſaid Lords of council and ſeſſion, the ſaid day and place, in the hour of cauſe, with continuation of days, the pretended writs and evidents following, *viz.* —— for the production, of the dates, tenors and contents above ſpecified, or of whatſoever other dates, tenors, or contents the ſame be of, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame reduced, retreated, caſſed, annulled, decerned and declared, by their decreet, to have been from the beginning, to be now, and in all time coming, null, and of non-avail, force, ſtrength, and effect, with all that has followed, or may follow thereupon; and alſo as being falſly forged, ſimilated, counterfeited, feigned, fabricated, made up, uſed and deviſed by the ſaid defenders, and their ſaid predeceſſors, cedents and authors, or one or other of them, be civilly and lawfully improven, *per teſtes inſertos et omni alio modo quo de jure*, and decerned and declared, by the ſaid Lords their decreet, to make no faith in judgment, nor outwith the ſame in time coming, and the counterfeiters, uſers, and deviſers thereof cenſured and puniſhed in their perſons, lands, and goods, to the terror, and in example of others to commit the like in time coming, (6) for the reaſons and cauſes following: *In the firſt —— (here leave a blank for the reaſons, and then ſay)* at leaſt to hear and ſee it found and declared, (7) by decreet of Our ſaid Lords, that neither the ſaid J. L. M. purſuer, nor his heirs and ſucceſſors, heritors of the ſaid lands, baronies, and others foreſaid, comprehending as ſaid is, nor their tenants, poſſeſſors, and inhabitants of the ſame, preſent or to come, are any ways liable to the ſaid J. E. of B. or his heirs or ſucceſſors their pretended right and juriſdiction of heritable bailliary, foreſtry, or other juriſdiction of, or over the ſaid lands, barony, and others foreſaid, comprehending in manner above expreſſed, or to appear before them, or their deputes and ſubſtitutes in the ſaid pretended offices, or in the leaſt ſubject for alledged contumacy, or otherways, in any cauſe civil or criminal, to their pretended acts, decreets, and ſentences of court, or by virtue of their authority, to undergo, or paſs upon aſſizes, or pay any fines, penalties, mulcts, or amerciaments, and eſcheats of court, to be inflicted and impoſed by them, or that by any of their ſaid pretended acts, decreets and ſentences may ſeem to ariſe thereupon; but, on the contrary, that the ſaid J. L. M. purſuer, and his foreſaids, and their ſaid tenants, poſſeſſors, and inhabitants of the ſaid lands, barony, and others foreſaid,

comprehending

comprehending as ſaid is, are altogether immune, free and liberate therefrom; and that the ſaid purſuer and his foreſaids, have undoubted right, by virtue of the ſaid rights and infeftments, and laws of this kingdom in that caſe provided, to judge, and keep courts on their own tenants, poſſeſſors and inhabitants preſent and to come, of the ſaid lands, barony, and others foreſaid; and the ſame being ſo found and declared, the ſaid defenders, and their heirs and ſucceſſors in their ſaid pretended rights, and their deputes and ſubſtitutes in the ſaid pretended offices, to hear and ſee themſelves decerned and ordained to deſiſt and ceaſe from all keeping of courts, civil or criminal, upon the ſaid lands and barony, and others foreſaid, comprehending as ſaid is, heritors, tenants, and poſſeſſors thereof, or upon any living or dwelling thereupon, and from all citing, convening, calling, or purſuing any of the ſaid perſons before them, either upon the ground thereof, or any other place extrinſic, and outwith the bounds of the ſame, or by fining, confining, impriſoning, diſtrenzieing, and otherways troubling them in their perſons, lands or goods, by virtue of their ſaid pretended authority, bailliary and juriſdictions, by their own or their deputes and ſubſtitutes their acts, decreets, and ſentences in any time coming, conform to the ſaid J. L. M. purſuer, his ſaid rights and infeftments, laws and daily practique of this Our realm heretofore inviolably obſerved in the like caſes in all points; (8) and therefore the foreſaid pretended rights called for to be produced, reduced and improven, as ſaid is, of the dates, tenors and contents above ſpecified, or of whatſoever other dates, tenors or contents the ſame be of, ought and ſhould be reduced (*ut ſupra*) and alſo as being falſly forged, feigned, (*ut ſupra*) ought and ſhould be civilly and lawfully improven, (*ut ſupra, until ye come to the* (6) *figure, and then ſay*) for the reaſons and cauſes foreſaid, and others; at leaſt it ought and ſhould be found and declared, (*here follow forth the ſtile above written from the* (7) *figure, until you come to the* (8) *figure, and with this alteration, in place of theſe words above*, to hear and ſee, *in the concluſion, ſay ſtill*, ought and ſhould be found and declared, ought and ſhould be decerned, *and ſo forth. Inſert a ſecond diet, and then ſay*) According to juſtice, *&c.* (*The date of the bill muſt be the date of the ſummons.*) *Ex deliberatione Dominorum Concilii.*

SUMMONS *of Declarator at the Inſtance of the Burgh of* Forres *and their Vaſſals, as to their Right, Privilege, and Poſſeſſion of the Salmon-Fiſhing in the freſh Water of* Findhorn, *againſt* J. E. *of* Murray, *who had a Fiſhing above theirs, and encroached upon the Fiſhing below.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by A. F. of —— provoſt, W. K. Mr. J. D. and R. D. fiar of B. baillies, and remanent council and community of Our burgh of Forres, heritable proprietors of the fiſhings under-written, and M. D. of G. N. D. fiar thereof, his ſon, T. V. of B. Mr. S. F. of K. T. T.

of T. J. D. of B. and the ſaid A. F. feuars and vaſſals to the ſaid provoſt and baillies, council and community of Our ſaid burgh of Forres, of the fiſhings under-written; That where the provoſt, baillies, council and community of Our ſaid burgh of Forres, are duly and heritably infeft and ſeiſed in all and haill ſeven ſixteen parts of the ſalmon-fiſhings upon the freſh water of Findhorn, and a net, commonly called a *ſeath net*, in the ſaid freſh water, as the infeftment and ſaſine thereof made to them and their predeceſſors thereupon, at more length bears; by virtue whereof, the ſaid provoſt, baillies, council and community of the ſaid burgh of Forres, and their feuars and vaſſals foreſaid, have good and undoubted right to the ſaid ſalmon-fiſhings on the ſaid water of Findhorn above-written: Likeas, they and their predeceſſors, and their vaſſals, feuars, tenants, and others in their names, are and have been in the continual and peaceable poſſeſſion of the ſaid ſalmon-fiſhings on the ſaid water of Findhorn, on both the ſides thereof, by taking and ſlaying of the ſalmon fiſhes thereof and therein, with nets and cobles, and all other forms and manner of engines neceſſary and requiſite for labouring of the ſaid ſalmon-fiſhings, and taking of the ſalmon fiſhes thereof, uſing and diſponing upon the ſame, and by making and bigging of ſichts, and making of fords, by caſting of grummel and ſmall ſtones upon, and in the ford-heads, erecting of the ground under the water, to make the ſaid fords run ſhallow, and the pools above the ſaid fords to be more deep, to make the fiſhes kyth above the ſaid fords, for the more commodious taking and ſlaying of the ſaid ſalmon fiſhes, and without the which ſichts being made in manner foreſaid, the ſaid fiſhes can never be taken and ſlain: Likeas, the ſaid purſuers, and their predeceſſors, and other heritors of the lands adjacent to the ſaid water, have been in continual poſſeſſion and uſe, in all time bygone, to put in ſcrends and ſtreams, after that the ſpeats, by inundation, had made the ſaid water to overflow the bank, and thereby have been in poſſeſſion and uſe to make the water run in a trough, as well for preſerving the lands where the water overflows, as for the commodious ſlaying of the ſaid ſalmon fiſhes in all time bygone, without ſtop, trouble or impediment; while of late, that Our right truſty couſin J. E. of M. Lord D. and A. *&c.* who have a ſalmon fiſhing on the ſaid water of Findhorn, two or three miles above the ſalmon-fiſhing aforeſaid, by himſelf, his friends, baillies, chamberlains, and others in his name, of his cauſing, command, ſending and hounding out, and by convocating and gathering together multitudes of people, hath made novation, ſtopped, hindered and impeded, and daily ſtops, hinders, and impedes the ſaid purſuers, their vaſſals, feuars, tenants, and poſſeſſors of the ſaid ſalmon-fiſhings, and their ſervants, in the peaceable poſſeſſion of their ſaid ſalmon-fiſhings above-written, and in bigging and making of ſichts in the fords of the ſaid water, to the effect above-mentioned, and to put in ſcrends and ſtreams, and to make the water run in one, as the ſaid purſuers and their predeceſſors, and their vaſſals, feuars, tenants, ſervants, and others in their names, have been in uſe to do in all time bygone; notwithſtanding that Our ſaid right truſty couſin J. E. of M. in his ſalmon-fiſhing above written, takes all kind of liberty to himſelf, and uſes all kind of engines to make his fiſhes kyth and appear,

pear, that they may the more commodiously be slain; and especially, makes cruives athort the water, and uses them so long as they are commodious for him; as also, uses to slay fishes with clips, water-spears, lift-nets, hang-nets, water-cloths, hecks athort the water, and many other uncouth engines never in use of before; whereby, neither fishes are suffered to return, nor yet to remain in places used to be the brood and mother of the water, as they had wont to do before these new inventions. *And albeit it be of verity*, That the said pursuers have oft and divers times required Our said right trusty cousin J. E. of M. who is only infeft in a fishing within the earldom of Murray, (and the said pursuers have nothing to do within the said earldom, in so far as concerns their said fishing above-expressed) to desist and cease from all stopping, troubling, or impeding of them, their vassals, feuars, tenants, and possessors of the said salmon-fishings, and their servants, in the peaceable possession of their said salmon-fishings above-rehearsed, and in bigging and making of sichts and fords in the said water, to the effect above-narrated, and to put in scrends and streams, and to make the water run in one in time coming, as in time bygone, (it being the custom of all the waters in the north, as Connan, Ness, Bewlie, Dovern, and others, to use all such engines, works, and others, to slay, and make their fishings commodious); and that likewise, Our said right trusty cousin himself, whose fishing upon the said water of Findhorn, is above the said pursuers fishings, and also, the heritors (who are many) of the fishings beneath, and betwixt the said pursuers fishings and the sea, and in like manner, divers heritors who have salmon-fishings above Our said right trusty cousin his fishing, as the water casts, yearly make, and use all engines and works, to make the said fishings commodious and profitable; yet, notwithstanding, Our said right trusty cousin J. E. of M. wrongously refuses, postpones, and defers to desist and cease from all stopping, troubling or impeding of the said pursuers, their vassals, feuars, tenants, and possessors of the said salmon-fishings, and their servants, in their peaceable possession of their said salmon-fishings above-written, and in building and making of sichts and fords in the said water, to the effect foresaid, and to put in scrends and streams, and to make the water run in one in time coming, as in time bygone, without he be compelled, and that declarator be given thereanent, in manner under-written, as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily summon, warn, and charge Our said right trusty cousin J. E. of M. personally, or at his dwelling-place, on twenty-one days warning, and all others, *&c.* to compear before Our Lords of council and session, at Edinburgh, or where it shall happen them to be for the time, the —— day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cause, with continuation of days, to answer at the instance of the said pursuers in the said matter: *That is to say*, Our said right trusty cousin J. E. of M. to hear and see it found and declared, by decreet of Our said Lords, that the said pursuers have good and undoubted right to the said salmon-fishings in the said water of Findhorn above-mentioned, and to work and labour the same with all engines requisite for taking and slaying of the salmon fishes being therein, and to make and build sichts and fords in the

said

ſaid water, to the effect above-written; and alſo, to put in the ſcrends and ſtreams, and to make the ſaid water run in one, at all times and on all occaſions, as well in time coming as in time bygone, and that Our ſaid right truſty couſin J. E. of M. has no right nor intereſt to impede the ſaid purſuers therein, and that he has done wrong in impeding them therein in time bygone; and therefore, to hear and ſee himſelf decerned, by the ſaid decreet, to deſiſt and ceaſe from all ſtopping, troubling, or impeding them, their vaſſals, feuars, tackſmen, tenants, and ſervants, in the peaceable poſſeſſion of the ſaid ſalmon-fiſhings above-written, and in bigging and making of ſichts and fords in the ſaid water, to the effect above expreſſed; and to put in ſcrends and ſtreams, and to make the water run in one in time coming, as in time bygone, conform to the ſaid purſuers infeftments, and rights, laws and practique of this Our realm, in all points. (*This ſummons contains a ſecond diet, becauſe of ſeveral points neceſſary to be proven otherways than by writ, and is on ſix days.*) According to juſtice, and for the coſts and ſkaiths, *&c.* as ye will anſwer to Us thereupon, *&c. Given under Our ſignet at Edinburgh the —— day of ——, and of Our reign the —— year.*

SUMMONS *at a Minor's Inſtance before the Exchequer, againſt her neareſt of Kin on the Father and Mother Side, to hear and ſee a Tutor given to her by the King and Exchequer; the Father having nominated none, or the Mother being left Tutrix, loſt the ſame by her after Marriage.*

GEORGE, *&c.* To —— Our ſheriffs, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by J. A. only lawful daughter to the deceaſed A. A. brewer in ——, procreate betwixt him and J. R. his ſpouſe: That where the ſaid deceaſed A. A. nominated the ſaid J. R. his ſpouſe tutrix to the ſaid purſuer, but ſhe afterwards marrying, by the law loſt the benefit of the ſaid tutory; neither has the neareſt on the father's ſide challenged his right in law within year and day of the ſaid marriage, or ſince, now by the ſpace of ——, ſo that the power and right of nomination of tutors, one or more, to the ſaid J. A. for governing her and her affairs, and means and eſtate, purſuing and defending of all actions, leſt her means and eſtate accruing and belonging to her, or that hereafter ſhall fall, appertain and belong to her, by deceaſe of J. A. her uncle, J. M. her grandmother, the deceaſed A. A. elder, maltman in —— her grandfather, or others to whom ſhe has or may ſucceed, is now vacant in Our hand, by the right and privilege of Our crown; and in reſpect We are to nominate and appoint ſome perſon tutor to the ſaid purſuer, to the effect foreſaid, and that by the laws and practique of this Our realm, it is neceſſary that two neareſt of kin on the father's ſide, and two neareſt of kin on the mother's ſide, be convened before any ſuch nomination, in manner under-written, as is alledged: *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge A. B. and G. B. two of the neareſt of kin on the father's ſide, and — R. in —— and — B. two of the neareſt of kin on the mother's ſide, to the

ſaid

ſaid purſuer, perſonally, or at their dwelling-places, on twenty-one days warning, to compear before the Lords of Our treaſury and exchequer, at Edinburgh, or where it ſhall happen them to be for the time, the —— day of —— if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee a tutor, one or more, nominated and given to the ſaid purſuer by Us, and the Lords commiſſioners of Our treaſury and exchequer, in Our name, and under Our quarter-ſeal, in due and competent form, for managing and governing her and her affairs, means and eſtate, belonging, or that ſhall happen to fall, appertain and belong to her in manner foreſaid, and for purſuing and defending of all actions and cauſes competent to her, or that is or may be purſued againſt her by any perſon or perſons, and caution taken for his faithful adminiſtration, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to them, if they fail, We and the ſaid Lords of Our treaſury and exchequer will proceed in the ſaid matter, and nominate and give tutors, one or more, to the ſaid purſuer, to the effect foreſaid, conform to the laws and daily practique of this Our kingdom, in all points. According to juſtice, as ye will anſwer, *&c.*

(*Needs no bill.*)

Nota, Ye will find another ſummons of this nature, *page* 98, *Part* 3. and chuſe which of the ſtyles ye will; but both are formal.

SUMMONS *of Liquidation of Tithes, at the Inſtance of an Adjudger of the Patronage and Tithes, againſt the apparent Heir; it alſo includes Damage, and a Compenſation of a Debt, and Payment of the Balance.*

GEORGE, *&c.* To —— meſſengers, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by Sir L. G. of G. aſſignee after ſpecified, That where by a minute of contract made and paſſed betwixt the deceaſed Sir R. G. on the one part, and the deceaſed J. J. on the other part, of the date the —— day of —— 17— years, the ſaid deceaſed J. J. bound and obliged him, his heirs and ſucceſſors, to purchaſe and obtain himſelf, on his own expences, ſerved as neareſt and lawful heir to umquhil A. J. his father, and retour the ſame before the —— day of —— then next to come; and being ſo ſerved, he then, as if the ſame were already done, diſponed to the ſaid deceaſed Sir R. G. his heirs-male and aſſignees, the advocation, donation, and right of patronage of the pariſh-church of —— and —— the parſonage and vicarage teinds thereof, and other rents thereto belonging, within the regality of —— and dioceſe of —— and obliged him to infeft the ſaid Sir R. G. and his foreſaids therein, by double infeftments, to be holden, and with warrandice, in manner ſpecified in the ſaid minute, and his entry to be to the ſaid parſonage and vicarage teinds of the crop —— and to the uplifting of the teind ſilver, addebted by ſuch as were

alledged

alledged to have tack flowing from —— treaſurer of —— at the terms of payment contained in the tacks of the crop foreſaid; and alſo bound and obliged him to do no hurt or prejudice to the foreſaid minute, and other ſecurities to follow thereupon, by making of any other diſpoſition of the ſaid patronage or teinds, nor to ratify or approve of any aſſignation alledged then made by the ſaid —— without the ſaid Sir R. G. his conſent had thereto in writ, under the pain of —— by and attour the nullifying and annihilating of ſuch diſpoſitions and ratifications as ſhould be ſo made: Attour, for the ſaid Sir R. G. his ſtrengthening the ſaid right of patronage and teinds, the ſaid deceaſed J. J. bound and obliged him and his foreſaids, to deliver up to the ſaid Sir R. G. and his foreſaids, all infeftments, charters, precepts, inſtruments of ſaſine, procuratories of reſignation, and inſtruments following thereupon, with the Lords decreet upon the plantation of the ſaid kirks, and proviſion of their ſtipend, of the quantity, and in the quality mentioned in the ſaid minute, and other evidents and ſecurities whatſoever he had thereunto, and informations thereanent, together with the extract of his retour, as heir to his ſaid father, with the precept and ſaſine following thereupon, at the ending and ſubſcribing of the contract, to be extended on the ſaid minute, to be thereafter kept by the ſaid Sir R. as his own proper evidents, and to transfer his right thereof, ſo far as was tranſmiſſible in the perſon of the ſaid Sir R. for ever, and both parties obliged them to convene, and cauſe an indifferent man of judgment to extend the contract to follow upon the ſaid minute, and all other ſecurities neceſſary, before the —— day of —— then next; and if the ſaid J. J. was able to do any good in fortifying the ſaid rights, he obliged him to do the ſame when required thereto, with warrandice from his own and father's deeds: And becauſe the ſaid —— ſet tacks to ſeveral perſons for the years to run, of the parſonage and vicarage teinds of the lands of —— and others pertaining to the ſaid Sir R. and diſponed to him by the heritors thereof for the time, as alſo, ſet tacks of teinds of divers other lands within the ſaid pariſhes to other perſons; therefore the ſaid J. J. obliged him to ratify the foreſaid tacks of the ſaid Sir R. his own lands acquired by him, as ſaid is, or of any other lands of his within the ſame; as alſo, to grant heritable diſpoſitions of the ſaid patronage, teinds, rents, and others above ſpecified, and of his lands of —— to the ſaid Sir R. by advice of men of judgment at the time above mentioned; and for that effect, to purchaſe and procure himſelf entered, ſerved, retoured and infeft in the ſaid town and lands of —— lying within the ſheriffdom of —— as well as in the foreſaid advocation, donation, and right of patronage of the ſaid pariſh-kirks of —— and parſonage and vicarage teinds thereof, and that before the ſaid — day of — then next: And farther, the ſaid deceaſed J. J. obliged him and his foreſaids, to produce and deliver to the ſaid Sir R. a legal progreſs of writs, in manner ſpecified in the ſaid minute; and for the which cauſes, the ſaid Sir R. obliged him to pay to the ſaid J. J. his heirs and aſſignees, the ſum of —— Scots money at the term therein ſpecified, with annualrent thereafter during the not-payment, upon the ſaid J. J. and his foreſaids their performance of the ſaid J. J. his part of the ſaid minute; and both parties obliged them to perform the ſaid

minute

minute to one another, betwixt and the said day, under the pain of —— money foresaid, to be paid by the party failzier to the party observer, or willing to observe the same, in name of liquidate penalty in case of failzie, and that by and attour performance of the premisses, and together therewith; likeas, the said Sir R. G. by his assignation, dated the —— day of —— 17— years, constituted the said pursuer his assignee in and to the said minute of contract, haill heads, obligements, articles, clauses and penalty therein contained, with all that followed, or might follow thereupon, as the said minute of contract, and assignation thereof aforesaid, in themselves more fully proport; whereupon the said pursuer, as assignee foresaid, raised summons, and intented action at his instance before Our Lords of council and session, against M. J. J. now of —— as son and heir served and retoured to the said deceased J. J. and upon the remanent passive titles, for implement of the said minute; and which summons and action being oft and divers times called in presence of the said Lords, and last of all upon the —— day of —— 17— years, they, by their decreet then given and pronounced by them in the said matter, (for the causes therein specified, *et parte comparente*) decerned and ordained the said M. J. J. as lawfully charged to enter heir to the said deceased J. J. his father, and as behaving himself as heir to him, to fulfil and perform to the said pursuer, as assignee foresaid, the said minute of contract, in the haill heads, obligements, clauses and conditions thereof, in so far as his said deceased father stood any ways obliged thereby; and for that effect, to extend the same in ample form, by advice foresaid, and to infeft and seise the said pursuer, as assignee foresaid, in the said patronages, teinds, and others above mentioned therein contained, by double infeftments, to be holden with warrandice, as said is, and to ratify and approve the said tacks and rights of the said deceased Sir R. G. his own lands, pertaining heritably to the said pursuer, and to deliver to him a sufficient progress of writs, and to obtain himself served, retoured, and infeft as heir in special to his said deceased father, and the said deceased A. J. his grandfather, in the said patronages, teinds, and others contained in the said minute, or to one or other of them who died last vest and seised therein; and likeways to make payment to the said pursuer of the foresaid penalty therein mentioned, after the form and tenor of the said minute of contract and assignation made to the pursuer, in all points, in manner specified in the said decreet; whereupon the said pursuer raised not only letters of horning, and by virtue thereof, caused charge the said M. J. J. to fulfil to him the said minute, and for his disobedience, denounced him to, and registered him at the horn, and thereupon caption likeways followed, but also raised letters of special charge, and by virtue thereof, caused charge him to enter heir in special to his deceased father and grandfather in the said lands, teinds, patronages, and others mentioned in the said minute, at least to one or other of them who died last vest and seised therein within forty days, conform to the act of parliament *ad hunc effectum*, that he might be in capacity to fulfil the said minute; and to which charge no obedience was given, wherethrough, and upon the accompt the said pursuer had done, and used all diligence of the law incumbent, without any performance, he therefore raised summons, and intented action of adjudication at his instance, founded upon,

and relative to the haill grounds aforeſaid, againſt the ſaid M. J. J. before the ſaid Lords, and upon the —— day of —— 17— years, obtained decreet in the ſaid matter, adjudging, decerning and declaring the heritable, irredeemable and undoubted right of the ſaid lands of —— with the advocation, donation, and right of patronage of the ſaid pariſh-kirks of —— and parſonage and vicarage teinds thereof, and other rents thereto belonging, lying as ſaid is, and haill benefit of the ſame, of the crop and year of God 17— years, and haill terms thereof, and yearly and termly ſinceſyne, and in all time coming, and all privileges of preſentation of miniſters, parſons, and others to the ſaid kirks of —— ſetting and granting of tacks of the teinds parſonage and vicarage thereof, reducing, quarrelling and impugning of all former tacks granted to any perſon or perſons of the ſame, or other rights conceived in their favours, by infeftment, decreet of plat, prorogation, or otherways, together with all other privileges of the law due to a patron, and ſtanding in the perſons of the ſaid deceaſed J. and A. J. or one or other of them, or that was or might be competent to the ſaid M. J. J. if he were duly and lawfully ſerved, retoured and infeft as heir in ſpecial to them, or one or other of them, who died laſt veſt and ſeiſed in the ſaid lands, right of patronage, teinds, and others above ſpecified, with the pertinents, together alſo with the haill contracts, diſpoſitions, charters, ſaſines, infeftments, and other rights and ſecurities of the ſame competent to the ſaid deceaſed A. and J. or that might be competent to the ſaid M. J. J. if he were entered, retoured and infeft as heir in ſpecial to them, as ſaid is, and all action, purſuit and inſtance, competent, or that might be competent thereupon, with all that followed or might follow upon the ſame, to pertain and belong to the ſaid purſuer, his heirs-male and aſſignees, to be peaceably poſſeſſed, bruiked, enjoyed, uſed and diſponed upon by them as their own proper heritage, and undoubted rights of patronages and teinds, heritably and irredeemably thereafter in all time coming; and the ſaid Lords ordained them to be heritably infeft and ſeiſed therein, and the director of Our chancellary to emit and direct forth precepts under Our quarter ſeal for that effect, in manner ſpecified in the ſaid decreet of adjudication; conform whereunto, a precept directed thereupon accordingly under Our ſaid quarter ſeal, the ſaid purſuer was upon the —— day of —— lawfully infeft therein, as the ſaid decreet, precept and inſtrument of ſaſine following thereupon, duly regiſtered, conform to the act of parliament, in themſelves more copiouſly is comprehended. *And true it is*, That if the ſaid deceaſed J. J. had fulfilled the ſaid minute of contract to the ſaid deceaſed Sir R. G. author to the ſaid purſuer, in manner, and at the time above expreſſed, he, (and conſequently the ſaid purſuer as his aſſignee,) would have made of the ſaid teinds, parſonage and vicarage, the ſaid crop —— 17— years, (being the time of his entry thereto, and ſo thereby declared) and yearly ſinceſyne, the ſums of money after ſpecified, *viz. (here leave blank for half a ſheet, and then ſay)* and to which the ſame ought to be liquidated by the ſaid Lords as damage and intereſt ſuſtained by the ſaid purſuer and his ſaid author, through the ſaid deceaſed J. J. his not fulfilling of the ſaid minute of contract, as ſaid is, extending in the haill, the ſaid reſpective ſums, and during the

years

years aforesaid, now by the space of —— years, to the sum of —— and sicklike, the said deceased J. J. was otherways addebted to the said deceased Sir R. G. in the sums of money after mentioned, in manner, and for the causes after expressed, *viz.* (*here leave blank for half a sheet, to libel the debts, and then say*) and to which sums the said pursuer has also right from the said deceased Sir R. G. by virtue of the former assignation, and which sums extend in the haill to —— money foresaid; wherethrough, and by the other sum above written due to the said pursuer, upon the accompt of the said teinds, extending both to the sum of —— money foresaid, the foresaid sum that was due by the said deceased Sir R. G. to the said deceased J. J. now of —— by virtue of the said minute of contract, and interest thereof, extending in the haill at the term of —— to the sum of ——, will not only be satisfied and compensated, but also, and by balance, the said M. J. J. now of —— *nominibus passivis supra scriptis*, or one or other of them, will be debitor to the said pursuer in the sum of —— money above written, over and above the said compensation. *And albeit it be of verity*, That the said pursuer is willing to compense, *pro tanto*, of the said debt resting by the said deceased Sir R. G. and to accept of the superplus due by balance, as said is, and that he has oft and divers times desired and required the said M. J. J. as heir served and retoured to the said deceased J. J. his father, (*here libel all the other passive titles, and then say*) to have compensated and allowed the foresaid sum due by the said deceased Sir R. G. (6) to his said deceased father, by the said minute of contract, in the first end of the foresaid sums due to the said pursuer and his said cedent, upon the account of the said teinds, and otherways, in manner above expressed; and for that effect, validly to exoner and discharge the heirs, executors, and other representatives of the said deceased Sir R. G. of the said sums, as being satisfied by allowance and compensation, as said is, and with absolute warrandice; and likeways to have made payment to him, as having right in manner foresaid, of the superplus of the said sums due for and upon the accompt of the said teinds, and otherways, in manner above rehearsed, attour the said compensation, extending the said superplus or balance, as said is, with the annualrent thereof in time coming during the not-payment; and sicklike, to make payment to him of the value of the said teinds yearly in time coming, ay and while the said pursuer attain to the peaceable possession thereof, and intromission with the same, conform to, and in the terms of the said minute of contract, extending, the value of the said teinds yearly, in manner above expressed, after the form and tenor of the said minute of contract, assignation thereof, decreet of adjudication above specified, sasine following thereupon, laws and daily practique of this Our realm heretofore inviolably observed in the like cases in all points; *nevertheless*, The said M. J. J. defender, wrongously refuses, postpones and defers to do the same, without he be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn and charge the said M. J. J. *nominibus passivis quibus supra*, personally, or at his dwelling-place, on twenty-one days warning, to compear, *&c.* (*here follow forth the stile*) to answer at the instance of the said pursuer in the said matter: *That is to say*, The said defender, upon the

paſſive titles above ſpecified, or one or other of them, to hear and ſee himſelf decerned, by decreet of the ſaid Lords, to compenſate and allow the foreſaid ſums due by the ſaid deceaſed Sir R. G. *(here conclude the ſummons according to the former ſubſumption,* in terminis, *from the* (6) *figure, until ye come to* nevertheleſs, *and then ſay)* or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defender if he fail, Our ſaid Lords will proceed in the ſaid matter, and decern therein in manner foreſaid.

Nota, This ſummons muſt contain a ſecond diet, becauſe, albeit founded in writ, yet the value of the teinds, and yearly prices thereof, muſt be proven by oath of the defender, or witneſs, which is the ground of the Lords liquidation, and makes a clear conſtitution of the debt.

SUMMONS *at the Inſtance of a Superior againſt a Vaſſal, for not paying of his Service and yearly Duty, which by the Inſeſtment is by way of Annualrent, containing Liquidation of the Service, and Payment of both, and a Poinding of the Ground.*

GEORGE, *&c.* To —— Our ſheriffs in that part, and meſſengers *reſpectivè, &c.* Foraſmuch as it is humbly meant and ſhown to Us by A. C. of D. That where the ſaid purſuer ſtands heritably infeft and ſeiſed in all and haill an annualrent of five merks Scots money yearly, to be uplifted and taken at two terms in the year, Whitſunday and Martinmas, by equal portions, together with a dozen of poultry, and twenty load of turfs, to be led of the purſuer's own turfs, and one night's meat for himſelf, horſe and ſervants, forth of the lands of ——, and half of the mill of ——, multures and ſequels thereof, pertaining heritably to A. W. of C. lying within the liberties of the burgh of C. and of old diſponed by the purſuer's predeceſſors to the ſaid A. W. his predeceſſors, to be holden of Our moſt royal progenitors, kings of Scotland, *in libero burgagio*, for ſervice of burgh uſed and wont, and for payment to the ſaid burgh of C. of ten ſhillings Scots, and alſo for payment to the purſuer's predeceſſors, and their ſucceſſors, of the foreſaid annualrent, a dozen of poultry, the leading of the ſaid twenty load of turfs of the ſaid purſuer's predeceſſors and their ſucceſſors, and of the foreſaid night's meat, as the inſtrument of ſeiſin granted to the ſaid purſuer thereupon, dated the —— day of —— 17— years, in itſelf more fully proports: Likeas, J. W. heir by progreſs ſerved and retoured, at leaſt ſucceſſor to the ſaid A. W. and heritor of the ſaid lands, mill, and others foreſaid, by his obligation dated the —— day of —— 17— years, (relative to the foreſaid original vendition,) bound and obliged him and his heirs, in the moſt ſure form of obligation, to ride and ſerve with the deceaſed A. C. burgeſs of C. and his heirs, in all affairs and negotiations lawful and honeſt, as oft and how oft he and his foreſaids were lawfully required thereto by the ſaid A. C. and his foreſaids; and alſo, obliged him and his foreſaids, to make payment to the ſaid deceaſed

deceaſed A. C. and his above-written, of the foreſaid duties, and perform the other ſervices and preſtations contained in the ſaid original infeftment and vendition, as the ſaid obligation, of the date foreſaid, in itſelf alſo more fully is contained; and to which obligation the purſuer has right, as heir by progreſs to the ſaid deceaſed A. C. as well as by virtue of his ſaid infeftment. *And albeit it be of verity*, That the ſaid purſuer, as he who ſtands infeft, as ſaid is, and alſo, as heir by progreſs to the ſaid deceaſed A. C. (in whoſe favours the foreſaid bond of ſervice and following was conceived, as ſaid is), has oft and divers times deſired and required the ſaid A. W. now heritor of the ſaid lands and half mill aforeſaid, to have made payment to him of the foreſaid annualrent of five merks, as alſo of the foreſaid dozen of poultry, or four ſhillings Scots for each one of them as the price thereof, and of ſix ſhillings Scots for each one of the foreſaid loads of turfs unled by him and his predeceſſors, to the ſaid purſuer and his predeceſſors, as the value and price of the ſame, and of the ſum of twelve pounds Scots for the ſaid night's meat, and as the value and price thereof, and that yearly and each year the years of God ——; and likewiſe, to make payment to the ſaid purſuer of the ſaid annualrent and night's meat, with the ſaid poultry, and to lead the ſaid twenty loads of turfs of the purſuer's turfs, or elſe make payment to him of the like value and prices, as above-ſpecified, yearly in time coming; and in like manner, to make payment to him of the ſum of forty pounds Scots, yearly and each year the ſaid years, of damage, and prejudice ſuſtained by the ſaid purſuer, through the ſaid A. W. his not riding with, and ſerving of the ſaid purſuer, and the ſaid deceaſed A. C. his predeceſſor, in manner above-mentioned, being yearly required thereto, and of the like ſum yearly in all time coming, in caſe he fail, and not ride with and ſerve the purſuer, being required to the ſame, in manner foreſaid; nevertheleſs, he not only refuſes, poſtpones, and defers to do the ſame, but alſo, will not allow a liquidation of the ſaid poultry, leading of the ſaid turfs, night's meat, and perſonal ſervice, or a poinding of the ground therefor, contrary to all law, without he be compelled. Wherefore, neceſſary it is for the ſaid purſuer, to have this Our ſummons directed at his inſtance againſt the ſaid defender, in manner, and to the effect under-written, conform to the purſuer's right aforeſaid, laws and practique of this kingdom, uſed and obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid defender, *&c.* on twenty-one days warning, to compear, *&c. (here follow forth the ordinary ſtyle)* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defender to hear and ſee the premiſſes ſufficiently verified and proven to be of verity, and the ſaid poultry, loads of turfs, night's meat, perſonal ſervice, and following, not only liquidated, by the ſaid Lords their decreet, to the value and prices above-ſpecified, for the bygone years, but alſo, to the like value and prices yearly in time coming, when not paid, led, given, and performed, as ſaid is: And the ſame being ſo verified and proven, and liquidated in manner foreſaid, the ſaid defender to hear and ſee himſelf decerned, by decreet foreſaid, to make payment to the ſaid purſuer of the foreſaid ſum of

five

five merks of annualrent, as alſo, of the foreſaid dozen of poultry, or price thereof above-ſpecified, and of the ſaid ſix ſhillings Scots for each one of the foreſaid loads of turfs uſed, as ſaid is, and of the ſaid ſum of twelve pounds Scots for the ſaid night's meat, and of the ſaid ſum of forty pounds money foreſaid, of damage and prejudice ſuſtained by him through the ſaid A. W. his not riding with, and ſerving of the ſaid purſuer in manner foreſaid; and all of the ſaid particulars yearly and each year the years of God above-mentioned: And in like manner, the ſaid defender to hear and ſee himſelf, and his heirs and ſucceſſors in the right of the ſaid lands and half mill, found and declared liable, by the ſaid Lords, in payment and performance of the ſaid annualrent, poultry, and other preſtations above-mentioned, in all time coming; and decerned and ordained, to make payment to the purſuer, his heirs and ſucceſſors, of the like annualrent and poultry, and to lead the ſaid turfs, give the ſaid night's meat, and perform the ſaid perſonal ſervice in time coming, when required thereto, or elſe to make payment to the ſaid purſuer and his foreſaids of the like values and prices as above expreſſed: And for the better and more ſure payment and ſatisfaction of the ſaid annualrent and poultry, and of the ſaid night's meat, leading of the ſaid turfs, and performing of the ſaid ſervices, or value and price above-ſpecified, and as the ſame ſhall be liquidated in manner foreſaid, as well in time coming as for times bygone, the ſaid defender to hear and ſee Our other letters decerned and ordained, by decreet foreſaid, to be directed to meſſengers at arms, at the inſtance of the ſaid purſuer and his foreſaids, commanding them to paſs to the ground of the ſaid lands and half mill, and there, in Our name and authority, ſearch, ſeek, fence, arreſt, appriſe, compel, poind and diſtrenzie the readieſt goods, gear, corns, cattle, horſe, nolt, ſheep, and other moveable goods and gear whatſoever, being, or that ſhall happen to be upon the ground of the ſaid lands of ——, and half mill of ——, pertaining heritably to the ſaid defender, in manner above-rehearſed; and failing of moveable goods and gear poindable and diſtrenzieable, thereupon to appriſe the ground-right and property thereof, and all other right and title whatſoever, competent, or that may be competent to him of the ſame, to the avail and quantity of the ſaid annualrent of five merks, and liquidated prices of the ſaid poultry, and prices of the leading of the ſaid turfs, night's meat, and perſonal riding and ſervice above-ſpecified, (and to which prices the ſame are to be liquidated, in manner above-expreſſed), and that yearly the particular years above-mentioned, and alſo yearly in time coming (at the ſame rates and prices), in caſe of not payment and performance of the *ipſa corpora*; and to make the ſaid purſuer and his foreſaids completely paid thereof, after the form and tenor of the ſaid right and infeftment, obligation, laws and daily practique of this Our realm, uſed and obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the defender, if he fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and find, declare, liquidate and decern in manner foreſaid. *(Here inſert a ſecond diet; becauſe the value, in order to a liquidation, muſt be proven otherways than by writ; and then ſay, in the cloſe thereof, after the words,*

ſhall

ſhall be holden as confeſſed, and decreet given and pronounced againſt him in the ſaid matter, finding, declaring, liquidating, and decerning, in manner above-expreſſed; *and thereafter conclude with)* According to juſtice, as ye will anſwer, *&c.*

Nota, This ſummons, being on twenty-one days, (becauſe there is ſomething of a declarator, beſides liquidation, concluded therein,) needs no bill, and cannot be privileged on fewer days; however, the poinding of the ground, if matters were liquidated and declared *ab ante*, and by a previous ſentence, *ex ſua natura*, and upon a bill, might be on ſix days; and in that caſe needed no ſecond diet, all being proven by writ.

SUMMONS *of Declarator at the Inſtance of the King's Maſter Taylor, of his Gift and Office, Privilege and caſualty thereof, and Office of Purveyor and Proviſor of the Cloth for the King's Beed-men, and being exempted of all Burdens, Stenting, Scoting and Loting within Burgh, not only againſt another pretending Right to the ſaid Office, for annulling the ſame, and Repetition of the bygones uplifted and intromitted with by him, and to deſiſt and ceaſe from exercing or doing the like in time coming, but alſo, againſt the Magiſtrates and their Collectors, and the Stent-maſters, from all Quartering upon, or Poinding him for any Burdens for the future.*

GEORGE, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by J. R. taylor in the Canongate of Our burgh of Edinburgh, That where his late Majeſty, by his letter of gift under his Highneſs's privy ſeal, of the date, at his court at Whitehall, the —— day of —— 17— years, for the cauſes, and upon the conſiderations therein-ſpecified, and with advice and conſent of the Lords commiſſioners of the treaſury and exchequer for the time, made and conſtituted the ſaid purſuer, during all the days of his lifetime, his Majeſty's maſter-taylor within the kingdom of Scotland, with all privileges and profits belonging thereto, and particularly, with the privilege of being exeemed from bearing burden, or watching and warding within burgh with the reſt of the neighbours, conform to the 275th act of the 15th parliament of King James VI. of bleſſed memory; and with power to the ſaid purſuer, to uſe and exerce the ſaid office, ſicklike, and as freely, in all reſpects, as any formerly in that office bruiked and exerced the ſame; and ſpecially, without prejudice of the foreſaid generality, with the ſole and only power of making the *blue-gowns* upon his ſaid late Majeſty's birth-day; and, for the purſuer's farther encouragement, gave and granted to him, during all the days of his lifetime, as ſaid is, the yearly fee therein mentioned, to be paid, at the terms therein-expreſſed, by the Lords commiſſioners of the treaſury, treaſurer, or treaſurer-depute, or receiver of his Highneſs's rents for the time, beginning the firſt term's payment thereof at the term of —— 17— years, and ſo forth termly theteafter, during all the days of his lifetime, and ordained the ſaid yearly fee to be allowed in the exchequer accompts;

compts; and likewiſe, gave and granted to the ſaid purſuer, full power, freedom and liberty, for all the days of his lifetime, as ſaid is, to work at his trade within the burgh of Edinburgh, and all other royal boroughs within this kingdom where he ſhall happen to be for the time, and to tranſport his work to and from the ſame, without trouble or moleſtation whatſoever, as the ſaid letter of gift, of the date foreſaid, containing a reſervation to W. C. during his life, the gift of the office of purveyor and proviſor of the cloth, and making of the gowns to the beed-men yearly, on his late Majeſty's birth-day, granted by King Charles II. of ever-glorious memory; dated at Windſor-Caſtle, the laſt day of —— 17— years, in itſelf more fully proports; by virtue whereof, and conform to the ſaid act of parliament, laudable laws and daily practique of this kingdom, heretofore inviolably obſerved in the like caſes, the ſaid purſuer (eſpecially now ſince the deceaſe of A. H. ſome time maſter-taylor to the ſaid King Charles II. who deceaſed in the month of —— 17— years, and ſince the deceaſe of the ſaid W. C. purveyor and proviſor of the cloth, and making of the gowns to the ſaid beed-men, and who deceaſed in the month of —— 17— years,) and in all time coming during his lifetime, has the only ſufficient title of being Our maſter-taylor, and purveyor and proviſor of the cloth, and making of the gowns unto Our beedmen, yearly on Our birth-day, and the ſole, undoubted, and incontrovertible right, of all the fees, priviſeges, freedoms and immunities belonging to the ſaid offices, ſickkike, and as fully and freely in all reſpects, and to all intents and purpoſes, as the forenamed perſons, and others their predeceſſors therein, or either of them, enjoyed, bruiked and poſſeſſed, or, by virtue of the ſaid act of parliament, laws, practique and conſtitutions of this kingdom, might have poſſeſſed, bruiked and enjoyed at any time in their lifetimes. *And true it is*, That the forenamed perſons particularly above named, and their predeceſſors in the ſaid office, were not only in uſe and poſſeſſion thereof, by exercing the ſame, uplifting the fees and ſalaries thereto belonging, and providing of the cloth, and making of the gowns for the beedmen (vulgarly called *blue-gowns*) upon his Majeſty's birth-day, but alſo, were liberated and freed from bearing of burden, watching and warding within burgh with the reſt of the neighbours; and yet, notwithſtanding thereof, the Lords of Our treaſury demur upon, and poſtpone the purſuer's payment, as maſter-taylor to Us, and as purveyor and proviſor foreſaid, of the accuſtomed fee and ſalary payable to his predeceſſors in the ſaid office, being —— Scots money yearly, at Whitſunday and Martinmas, forth of Our rents and caſualties in exchequer, notwithſtanding allowance thereof be appointed to be granted to them in their accompts, yearly; yea, G. F. taylor, burgeſs of the Canongate, pretends right to the ſaid office, fees, and privileges thereof, by virtue of another gift; as alſo, ——, without any gift from Us, or Our moſt royal progenitors, aſſumes the place, and uplifts the benefit thereof, and particularly the providing cloth for, and making of the ſaid gowns yearly; likeas, the magiſtrates of Our burgh of Edinburgh, and Canongate thereof, impoſe upon, and exact from the purſuer, a proportional part of the ceſſes, ſtents, and other impoſitions, with the reſt of the neighbours, and make him liable for watching and warding, and what elſe is incident

cident within the ſaid burgh; and in effect, the ſaid magiſtrates of Edinburgh and Canongate, and their officers, collectors, and others deriving power from them, poind, diſtrenzie, intromit with, and away-take the pleniſhing of his houſe, and materials of his work wherein he is employed, and at times apprehend and incarcerate his perſon for the ſame, without reſpect, and merely contrary and repugnant to his ſaid gift, act of parliament, laws, conſtitution and practique of this kingdom aforeſaid, wherethrough the true meaning and intent thereof is violated, and the purſuer heavily damnified and prejudged theſe divers years bygone, and will be ſo for the future, without remeid be provided thereto; and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that the ſaid purſuer had, likeas he has, the only good, ſufficient, and undoubted right and intereſt, by virtue of his ſaid gift, of being Our maſter-taylor, and purveyor and proviſor of the cloth, and making of the gowns unto Our beed-men, yearly on Our birth-day, and to the haill fees, profits, emoluments, freedoms, privileges and immunities belonging to the ſame, ever ſince the deceaſe of the ſaid A. H. and W. C. which was at the time above-ſpecified, and in all time coming during his lifetime, and that the ſaid G. F. and —— have no right thereto, at leaſt the purſuer's right is preferable to any right or pretenſions they may have, and the only perſon that ſhould enjoy the ſame, and be anſwered, obeyed, and paid thereof; and they ordained to deſiſt and fiſt from exercing the ſaid office, uplifting the fees and caſualties thereof, or troubling the purſuer therein for the future; and that the purſuer is not liable in bearing of burden, or in watching and warding with the reſt of the neighbours, or any thing elſe incident within burgh, or having his goods or work ſeized, attached, poinded and diſtrenzied, intromitted with, or away-taken, or his perſon apprehended or impriſoned upon that head or account: And the ſame being ſo found and declared, Our Lords of council and ſeſſion ought and ſhould decern and ordain, that the ſaid purſuer only exerce the ſaid office, and intromit with, uplift and enjoy the fees, benefits and caſualties of the ſame for the future; and in like manner, the provoſt and baillies of Our ſaid burgh of Edinburgh, and baillies in the Canongate, and their ſucceſſors in place and office, and their officers, collectors, and others deriving power from them, ought and ſhould be diſcharged from all impoſing of ceſs, ſtents, or other impoſition incident within burgh upon the ſaid purſuer, or exacting and uplifting the ſame from him, and poinding and diſtrenzieing his houſe or work, or troubling, apprehending, or incarcerating his perſon upon that head or account in any time coming, conform to his ſaid letter of gift, act of parliament, laudable laws, conſtitutions, and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, and which they wrongouſly refuſe to do, without they be compelled, as is alledged. *Our will is therefore*, and We charge you, that ye peremptorily ſummon, warn and charge —— Lords of Our treaſury, and —— Our advocate, —— Our ſolicitor, and the provoſt and baillies of Edinburgh, and baillies of the Canongate, and the ſaid G. F. who pretends right to the ſaid office, fees and caſualties thereof, and privileges of the ſame, by virtue of another gift from his late Majeſty, and ——

who assumes to himself a right and possession of being purveyor and provisor of the said cloth, for making gowns to the said beed-men upon Our birth-day, as said is, and uplifts the fees, benefits, and casualties thereof, personally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have interest in the said matter, by open proclamation at the market-cross of Edinburgh and Canongate, and other places needful, to compear before Our said Lords of council and session at Edinburgh, or where it shall happen them to be for the time, the —— day of —— if it be lawful; and failing thereof, the next lawful day thereafter following, in the hour of cause, with continuation of days, to answer at the instance of the said pursuer in the said matter: *That is to say*, The said defenders to hear and see it found and declared, by decreet of the said Lords, that the said pursuer had, likeas he has the only sufficient, good and undoubted right and interest, by virtue of the said gift, of being Our master-taylor and purveyor and provisor of the cloth, and making of the gowns unto Our beed-men yearly on Our birth day, and to the haill fees, profits, emoluments, freedoms, privileges and immunities belonging to the same, ever since the decease of the said A. H. and W. C. which was at the time above specified, and in all time coming during his lifetime, and that the said G. F. and —— have no right thereto, at least the pursuer's right is preferable to any right or pretensions they may have, and so the only person that should enjoy the same, and be answered, obeyed and paid of the fees and benefit thereof, and they ordained to desist and cease from exercing the said office, uplifting the fees and casualties thereof, or troubling the pursuer therein for the future; and that the said pursuer is not liable in bearing of burden, or in watching and warding with the rest of the neighbours, or any thing else incident within burgh, or having his goods and work seized, attached, pointed, distrenzied, intromitted with, or away-taken, or his person apprehended and imprisoned upon that head or account; and the same being so found and declared, the said provost and baillies of Edinburgh, and the said baillies of the Canongate, and their successors in place and office, and their officers, collectors, and others deriving power from them, to hear and see themselves decerned, ordained and discharged from all imposing of cess, stents, or other impositions incident within burgh upon the said pursuer, or exacting and uplifting the same from him, or pointing and distrenzieing his house or work, or troubling, apprehending, or incarcerating his person upon that head or account in any time coming, conform to his said letter of gift, act of parliament, laudable laws, constitutions, and daily practique of this Our realm, heretofore inviolably observed in the like cases in all points, or else to alledge a reasonable cause why the same should not be done: With certification to the said defenders if they fail, Our said Lords of council and session will proceed in the said matter, and find, decern, declare and discharge in manner foresaid: And if the said defenders fail, and compear not, day and place foresaid, that ye at the same time, and in the terms of the late act of parliament, lawfully summon, warn and charge them, personally apprehended on six days warning, to compear before the said Lords the —— day of —— in the hour of cause, with continuation of days, to hear and

see

ſee all neceſſary and lawful probation led and deduced in the ſaid matter, and to give and depone their oaths of verity thereunto, in ſo far as ſhall not be proven by writ or witneſſes: With certification to them if they fail, they ſhall be holden as confeſſed, and decreet given and pronounced againſt them therein, finding, decerning, declaring and diſcharging, in manner above expreſſed. According to juſtice, *&c.*

SUMMONS *of Declarator at the Inſtance of the Incorporations of Wrights and Maſons, conſiſting of ten Trades, againſt the Incorporation of the Hammermen of* Edinburgh.

GEORGE, *&c.* To —— meſſengers, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by J. H. deacon of the wrights, J. W. deacon of the maſons, and G. P. preſent boxmaſter, for themſelves, and in name and behalf of, and repreſenting the whole ten arts of Mary's Chapel, conſiſting of wrights, maſons, bowers, coupers, ſlaters, glaſiers, painters, plumbers, ſieve-wrights, and upholſterers, within Our city of Edinburgh, That where the ſaid chapel, made up of the ſaid ten arts, has been of ancient ſtanding, and have ever enjoyed the privileges of the reſpective and diſtinct arts, in ſuch manner, that none but thoſe that ſerved their apprenticeſhips, or was a free-man's ſon, or married a free-man's daughter of the chapel, and in that art he profeſſed or ſerved in, was capable to be freeman, or exerce any of the ſaid arts; but, on the contrary, their foundation and privilege have been from time to time ratified, not only by the Good Town, but even by Our deceaſed royal father, and others Our moſt royal progenitors, of ever bleſſed memory, and Our eſtates of parliament, and the purſuers and their predeceſſors in the ſaid arts, in the continual and perpetual poſſeſſion and exerciſe thereof theſe divers and many years bygone, paſt all memory of man, until of late, that thoſe of the incorporation of the hammermen, and ſuch as are conjoined with them and of their houſe, *viz. (leave blank for the deacon, maſters, boxmaſter, and remanent members of the houſe, and then ſay)* have, beyond all law, and contrary to all good neighbourhood, and rules and conſtitutions of the Good Town, yea, the ſet and decreet-arbitral pronounced betwixt the merchants and trades thereof, and even the trades amongſt themſelves, by the gentlemen and others to whom their differences were referred, and wherein Our grandfather King James VI. of ever bleſſed memory, was overſman, dated the ſaid decreet 22d day of April 1583 years; and to the ſeals of cauſe afterwards made and given by Our ſaid Good Town to each houſe and incorporation, relative and conform to the ſaid decreet, by which the marches betwixt them are clearly rid and diſtinguiſhed, encroached upon, and violated and infringed the rights and privileges of the purſuers their incorporation, and ten ſeveral arts thereof, by doing and committing the ſeveral acts, violations and encroachments after ſpecified, the ſeveral times after mentioned, the way and manner after expreſſed,

preſſed, *viz.* (*here leave blank for the encroachments, and then ſay*) wherethrough they have damnified and prejudged the purſuers in the ſum of —— Scots money, conform to a particular accompt thereof a-part (here holden as for expreſſed, *brevitatis cauſa*) likeas the defenders intend to continue in, and perpetuate the like encroachments, violations and breach of the purſuers privileges in time coming, without reſpect to the ſaid eſtabliſhment, decreet-arbitral, and ſeals of cauſe aforeſaid, and the purſuers, and their predeceſſors in the ſaid reſpective arts their immemorial poſſeſſion by virtue thereof, and as if the purſuers, (upon the account of their trades) did not bear burden, ſcoting, loting, watching, warding, and all other contingents within burgh, as well private as publick, to the great hurt, damage and prejudice of the ſaid purſuers and their ſucceſſors. *And albeit it be of verity*, That the ſaid purſuers have oft and divers times deſired and required the ſaid incorporation of the hammermen, and other arts conjoined and incorporated in one houſe with them, to deſiſt and ceaſe, in time coming, from doing, acting and committing the ſame, or like encroachments or violation of their rights and privileges aforeſaid, and to make payment to them, or the ſaid G. P. their preſent boxmaſter, or his ſucceſſors in that office, of the ſaid ſum of —— money foreſaid, wherein the defenders damnified and prejudged the purſuers, in manner above rehearſed: *Nevertheleſs*, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled; and therefore, it ought and ſhould be found and declared, by decreet of Our Lords of council and ſeſſion, that (6) the ſaid defenders have done manifeſt wrong and great injury, by their ſaid encroachments upon, and violation and infringement of the ſaid purſuers their incorporations and houſe, and ten ſeveral arts therein, and of their rights and privileges aforeſaid, and doing and committing the ſeveral acts and deeds above ſpecified, the way, manner, and at the times above mentioned; and that thereby they have damnified and prejudged the purſuers in the ſaid ſum of —— money above written, conform to the ſaid particular accompt thereof, (here holden as for expreſſed, as ſaid is;) and the ſame being ſo found and declared, the ſaid defenders to hear and ſee themſelves, and their ſucceſſors in their ſaid arts, not only decerned and ordained, by decreet of the ſaid Lords, to make payment to the ſaid purſuers, or their ſaid boxmaſter, or his ſucceſſor in that office, of the ſaid ſum of —— money foreſaid, wherein the defenders have damnified and prejudged the purſuers, in manner above written, (and to which ſum the ſaid damage and prejudice ought and ſhould be liquidated by the ſaid Lords) but alſo the defenders, and their ſucceſſors in their houſe and arts, ought and ſhould be decerned and ordained, by decreet foreſaid, to deſiſt and ceaſe from doing, acting and committing the ſame, or like encroachments or violations upon the purſuers and their ſucceſſors, their arts, rights and privileges aforeſaid, in all time coming, conform to the ſaid decreet-arbitral, ſeal of cauſe, immemorial poſſeſſion by virtue thereof, laws and daily practique of this Our realm heretofore inviolably obſerved in the like caſes in all points, (7) as is alledged. *Our will is herefore*, and We charge you, that ye peremptorily ſummon, warn and charge the ſaid J. C. S. W. J. W. A. H. J. F. (*here inſert the other members of the*

the incorporation of hammermen, and then say) personally, or at their dwelling-places, on twenty-one days warning, and all others having, or pretending to have interest in the said matter, by open proclamation at the market-cross of —— and other places needful, to compear, *&c.* *(in the common stile)* to answer at the instance of the said pursuers in the said matter: *That is to say,* The said defenders to hear and see it found and declared, by decreet of the said Lords, that *(here conclude the summons according to the subsumption from the* (6) *figure, till ye come to the* (7) *figure, with this alteration,* viz. *for these words,* ought and should, *in the said subsumption, make it in the conclusion,* to hear and see, *and then say)* or else to alledge a reasonable cause why the same should not be done: With certification to the defenders if they fail, Our said Lords of council and session will proceed in the said matter, and find, declare, liquidate and decern in manner foresaid. *(To insert a second diet, because the encroachments and damages are to be proven otherways than by writ; and after the words,* they shall be holden as confessed, and decreet given and pronounced against them in the said matter, *let these words be superadded)* finding, declaring, liquidating and decerning in manner above expressed. According to justice, *&c.* *Given under Our signet at Edinburgh the —— day of —— and of Our reign the —— year. And signed the same day.*

Nota, Albeit some of the incorporation of wrights and masons, called the other eight trades of that house pendicles, (which gave rise to the great plea betwixt them, as appears by the declarator pursued by the eight trades against the other two, page 178. *&c.* Part 3.) yet when the wrights and masons were encroached upon by the incorporation of the hammermen, ye see they include the eight trades to be part of the ten arts in Mary's Chapel.

SUMMONS *at the Instance of a Husband, against Persons to whom his Wife (in his Absence, and without his Knowledge or Consent) delivered much of his Substance, for Restitution thereof, or Value, and excrescent Profits of the same, being equivalent to a Spuilziation, or resolving in Damage* Actione rerum amotarum *(a Principle in the Civil Law) since it cannot be pursued for,* via furti.

GEORGE, *&c.* Forasmuchas it is humbly meant and shown to Us by J. S. of L. That where in the month of —— 17— years, the pursuer was married to A. S. relict of the deceased ——, and accordingly entered home to his family, and lived comfortably together, (and as became persons in wedlock, and that near and dear relation) until the month of —— 17— years, (and so by the space of ——, that either by the pravity of her own nature and disposition, or by the bad counsel and instigation of evil persons, malevolents and unfriends to both) she left and deserted his family, and was not only absent therefrom for a considerable time, but when she re-entered, continued not long there when she took the same methods and measures, and from time to time she was sometimes

ſometimes abſent, and ſometimes preſent, and in effect longer abſent than preſent; yea, a year, ſometimes two or more years altogether abſent: And whilſt preſent, not only embezzled a conſiderable part of his means, and gave away, bequeathed, gifted and diſponed the ſame at pleaſure, to ſuch perſons as ſhe had favour for, but likeways when abſent, and in the purſuer's own abſence from home, ſhe uplifted from the tenants of her liferent lands by her firſt huſband, (and to which the purſuer had right, either by aſſignation and diſpoſition antecedent to the marriage, or *jure mariti*) conſiderable quantities of victual, beſtial, and other things, and forced the ſame from them; yea, when the purſuer was at Edinburgh in the month of —— 17— years, and ſome months after, about ſome legal affairs, ſhe, at her own hand, diſpoſed of his cows and beſtial, plenilhing, and other things in great quantity, and to a conſiderable value, to her children in the firſt marriage, ſon-in-law, and other relations by conſanguinity or affinity, and without knowledge and conſent of the purſuer, as if ſhe were a ſingle perſon, and not *veſtita viro*, and under the religious and natural bonds, ties and obligations of wedlock; and as an introduction to theſe her after-actions, unwarrantable in themſelves, and to the great ruin, damage and prejudice of the purſuer, and his fortune and eſtate, ſhe ſometime after her marriage with him, granted bonds to her ſaid children in the firſt marriage, and other perſons, for conſiderable ſums of money, bearing penalties and annualrents, of deſign, if poſſible, not only to affect and burden her ſaid liferent by her firſt huſband, (and to which he had right, as ſaid is,) but alſo his own fortune and eſtate, could the ſame ſubſiſt in law; and upon which account, and for his own preſervation, he was neceſſitated, even againſt his inclination, to raiſe and ſerve inhibition againſt her, and which is duly regiſtered: And yet notwithſtanding thereof, ſhe afterwards embezzled, gave away privately, and bequeathed, beſides what not known, to the perſons after named, the goods, gear, corns, cattle, plenilhing, corns and others after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, each one of them for their own parts, as is after divided, *viz. (here leave blank for half a ſheet, to libel the goods, and then ſay)* and out of which goods and excreſcent profits thereof under written, *viz. (here leave blank for another half ſheet, to libel the profits and reſpective times, and then ſay)* the purſuer has lain ever ſince, now by the ſpace above written, and which the ſame would have yielded to him in that time, had the ſame been ſuffered to remain with him, and in his poſſeſſion, and not only unjuſtly and illegally given away, and received by them, but retained in manner above expreſſed; and for which excreſcent profits, as well as the *ipſa corpora* of the goods, or value thereof aforeſaid, (being upon the matter equivalent in law to a ſpuilziation, at leaſt reſolves *in damnum actione rerum amotarum*) the fore-named perſons are and ought to be liable, and the ſame liquidated by decreet of the Lords of council and ſeſſion accordingly. *And albeit it be of verity*, That the ſaid purſuer has oft and divers times deſired and required the fore-named perſons to reſtore and deliver to him (6) the goods, gear, cattle, and other beſtial, corns, and others above ſpecified, wrongouſly and illegally embezzled, given away, and conveyed by the ſaid A. S. his ſpouſe to them,

them, and by them, or others in their names, received from her, in manner above mentioned, or else to make payment to him, of the avails, estimations and prices of the same above rehearsed; and sicklike, to make payment to him of the excrescent profits thereof, or damage above expressed, sustained and incurred by him therethrough, and that daily and each day, and yearly and each year, since their receiving thereof, and intromission therewith, which was at the time above rehearsed, and of the like profits or damage yearly and each year, and daily and each day in time coming, ay and while the said goods, gear, and others foresaid, be restored, or value thereof aforesaid paid to the pursuer, as said is. (7) *Nevertheless*, they wrongously refuse, postpone and defer to do the same, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn and charge the said —— defenders, personally, or at their dwelling-places, on twenty-one days warning, to compear, (*here follow forth the stile*) to answer at the instance of the said pursuer in the said matter: *That is to say*, The said defenders to hear and see the premisses sufficiently verified, and proven to be of verity; and the same being so verified and proven, to hear and see themselves decerned and ordained, by decreet of the said Lords, to restore and deliver to the said pursuer, (*here take in the subsumption from the* (6) *figure to the* (7) *figure, and then say*) and to hear and see the said excrescent profits or damage liquidated accordingly by the said Lords, conform to the civil law, and laws and practique of this Our realm in all points; or else to alledge a reasonable cause why the same should not be done: With certification to the said defenders if they fail, the said Lords will proceed in the said matter, and liquidate and decern in manner foresaid. (*After this insert a second diet in common form, and then conclude with*) According to justice, *&c. Given under Our signet, at Edinburgh, the — day of ——, and of Our reign the —— year.* (*Needs no bill.*)

SUMMONS *at the Instance of* M. T. M. *of* J. *against* N. M. *of* A. *and his Complices, for Payment not only of the Value of Goods resting, violently taken away from off the Pursuer's Lands, but also, for the violent Profits determined in the general by Parliament, and now craved to be liquidated in particular by the Lords of Session, according to their constant Custom and Practique.*

GEORGE, *&c.* Forasmuch as it is humbly meant and shown to Us by M. T. M. of J. That where N. M. of A. and remanent persons afternamed, his complices, and others of his causing, sending, hounding-out, command, reset, assistance and rathabition, having no fear of God before their eyes, nor regard to Our laws, out of malice and hatred unjustly conceived against the pursuer, did, upon the —— and —— days of —— 17— years, convocate themselves in a tumultuous and hostile manner, with swords, guns, and other invasive weapons, and without any warrant or authority, did invade the lands of

J.

J. pertaining heritably to the purſuer, under ſilence and cloud of night, and did moſt violently rob and away-take from the purſuer and his tenants 47 horſes and mares, 46 cows, and 44 foals, extending in excreſce, price and worth, ſince the time of the depredation, to the ſum of —— pounds, which goods were in the purſuer's, and his tenants and ſervants poſſeſſion, by paſturing, labouring and herding with the ſame upon the ground of the ſaid lands divers years, at leaſt months, preceding the depredation; whereby the ſaid defenders contravened Our laws and acts of parliament, and committed open oppreſſion, in high contempt of Our authority; whereupon the ſaid purſuer meaned himſelf to Us and Our eſtates of parliament by petition, bearing the narrative above-ſpecified, and therefore, humbly deſiring a warrant for ſummoning the ſaid N. M. and his complices after-named, to compear before Our ſaid eſtates of parliament at a certain day, and to hear and ſee them decerned to reſtore the goods above-mentioned, in as good caſe as they were the time of the depredation thereof, or elſe to make payment of the avails and prices of the ſame, with the excreſcent profits: And the ſaid warrant being accordingly iſſued thereupon from the Lords commiſſioners for trade and bills, and the ſaid N. M. and his complices after-named, then given in in roll, *viz.* J. M. his brother, and —— being accordingly cited, and compearing by their advocates and procurators before the ſaid Lords commiſſioners for bills and trade, and the rights, reaſons and allegations of both parties, together with the depoſitions of divers famous and ſworn witneſſes received and adduced in the ſaid matter, with the ſaid purſuer his *juramentum in litem*, being heard, ſeen and conſidered by the ſaid Lords, they made their report therein to Us and Our ſaid eſtates of parliament: Likeas, the ſaid report being repreſented from the ſaid Lords commiſſioners for trade and bills to Our ſaid parliament, and being, upon the —— day of —— 17— years, read, and at length conſidered by them, and they well adviſed therewith; We, with advice and conſent of Our ſaid eſtates in parliament, decerned and ordained the ſaid J. M. brother to the ſaid L. of A. and remanent perſons, complices above-named, to refund and deliver to the ſaid purſuer, the number of twenty mares, ten horſes, eleven foals, and eighteen cows, taken away from him by them in manner foreſaid, or elſe to make payment to him of the ſum of fifty merks Scots money, as the price of each horſe and mare over-head, of the ſaid twenty mares and ten horſes, and twenty merks money foreſaid, as the price of each foal and cow, of the number of eleven foals and eighteen cows; and alſo, decerned the ſaid complices, to make payment to the ſaid purſuer of the excreſcent profits of the ſaid goods, conform to the act of parliament, laws and practique of this Our realm, ſince the time above-ſpecified of the away-taking of the ſame, in manner above-mentioned, and in time coming until the ſaid goods be reſtored, or prices thereof paid. *And true it is*, That albeit by the ſaid decreet the foreſaid excreſcent profits be decerned, as well as the real prices, yet, in reſpect the ſame are only decerned in the general, and not particularly at ſo much *per diem* for the work and hiregang of each horſe or mare, ſo much for the foal of each mare yearly, and ſo much for the calf and milkneſs of each cow, whereby real execution by apprifing, or execution by poinding,

poinding, may paſs, and that, by the acts of parliament of this Our realm, violent profits are allowed in caſes of ſpuilzie, and which violent profits are to be modified by Our Lords of council and ſeſſion, according as they ſhall ſee reaſon, and all circumſtances conſidered: Likeas, the ſaid Lords, by their daily practique, uſe to modify and determine the violent and excreſcent profits *reſpectivè* after-ſpecified, *viz.* 6s. 8d. for the work and hire-gang of each horſe or mare, daily and each day from the time of the ſpuilziation to the day of the reſtitution of the goods ſpuilzied, in as good caſe as they were the time of the ſpuilziation, or to the day of the payment of the prices thereof: *Item*, Each mare a foal yearly, or fifteen merks as the price of each foal, with 6s. 8d. daily and each day after their being a year old, being then able for ſervice, work and riding, until the time of the reſtitution thereof, or payment of the price of the ſame: *Item*, Ten merks for the milkneſs, butter and cheeſe of each cow yearly, from the time of the ſpuilziation until the reſtitution aforeſaid, or payment of the price of each cow, in manner above-expreſſed; wherethrough the purſuer, in all equity and reaſon, ought to have the like excreſcent profits decerned and allowed to him; and for that effect, the ſame excreſcent profits (however general in the ſaid decreet of parliament) ought to be liquidated, by decreet of Our Lords of council and ſeſſion, to the particular quantities, eſtimations, avails, prices and ſums of money above-written, and which the ſaid Lords by their conſtant practique are in uſe to modify in ſuch caſes: And the ſame excreſcent profits being ſo liquidated, the forenamed perſons, defenders, complices above-named, ought and ſhould be found and declared liable, conjunctly and ſeverally, *in ſolidum* thereof, and decerned and ordained, conjunctly and ſeverally, by the ſaid decreet, to make payment and deliverance to the ſaid purſuer of the ſame excreſcent profits ſo liquidated, daily and each day, yearly and each year *reſpectivè* ſince the time of the ſaid wrongous ſpuilziation and depredation, to the date of the ſaid decreet of parliament, as alſo, daily and each day, and yearly and each year ſinceſyne, and in all time coming during the not reſtoration of the ſaid goods, or payment of the prices of the ſame, in manner above expreſſed, conform to the ſaid decreet of parliament, laws and daily practique of this Our realm, heretofore inviolably obſerved in the like caſes, in all points, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge the ſaid ——, complices and defenders above-ſpecified, perſonally, or at their dwelling-places, on twenty-one days warning, to compear before Our ſaid Lords of council and ſeſſion *(follow forth the ordinary ſtyle, and then ſay)* to anſwer at the inſtance of the ſaid purſuer in the ſaid matter: *That is to ſay*, The ſaid defenders to hear and ſee the ſaid excreſcent profits (however general in the ſaid decreet of parliament) liquidated, by decreet of Our ſaid Lords of council and ſeſſion, to the particular quantities, eſtimations, avails, prices and ſums of money above-written, and which the ſaid Lords by their conſtant practique are in uſe to modify in ſuch caſes: And the ſame excreſcent profits being ſo liquidated, the forenamed perſons, defenders, complices above-named, to hear and ſee themſelves found and declared liable, conjunctly and ſeverally, *in ſolidum* thereof, and decerned and ordained, conjunctly

and ſeverally, by the ſaid Lords their decreet, to make payment and deliverance to the ſaid purſuer of the ſame excreſcent profits ſo liquidated, and that daily and each day, and yearly and each year *reſpective*, ſince the time of the ſaid wrongous ſpuilziation and depredation, to the date of the ſaid decreet of parliament; as alſo, daily and each day, and yearly and each year ſinceſyne, and in all time coming during the not-reſtoration of the ſaid goods, or payment of the prices of the ſame, in manner above expreſſed, conform to the ſaid decreet of parliament, laws and daily practique of this Our realm heretofore inviolably obſerved in the like caſes, in all points, or elſe to alledge a reaſonable cauſe why the ſame ſhould not be done: With certification to the ſaid defenders, if they fail, Our ſaid Lords of council and ſeſſion will proceed in the ſaid matter, and liquidate, find, decern and declare in manner foreſaid. According to juſtice, *&c.*

Note, You may inſert a ſecond diet, for the more ſecurity; but I ſee no neceſſity for it, becauſe the ſpuilzie and depredation being proven in plain parliament, and the complices found liable, and decerned not only as to the goods or value, but alſo in violent or excreſcent profits in the general, and ſo nothing now craved but a liquidation of theſe profits, which neceſſarily falls in conſequence; and the deed was ſo illegal and violent, being done under cloud of night, by force of arms, and the time of the uſurpation, that the juſtice of the parliament ſtepped over that of preſcription, (as not purſued within three years) and found profits due, and acted like noble and faithful legiſlators to their country, and whoſe repreſentatives they were: And, were not violence puniſhed, where lies the ſecurity of the ſubject?

SUMMONS *for Payment of, and Poinding the Ground for a blench Duty given by the King in Penſion to a Miniſter and his Son, at the Inſtance of a Perſon having Right thereto by Progreſs, againſt the Feuars, Subvaſſals, Tenants and Poſſeſſors.*

GEORGE, *&c.* Foraſmuch as it is humbly meant and ſhown to Us by M. T. M. writer in Edinburgh, aſſignee, and otherways having right to the yearly penſion under written, in manner after mentioned, That where Our umquhil goodfire King James VI. of worthy memory, by his Highneſs's letter of gift and penſion under his Majeſty's privy ſeal, of the date at Whitehall and Edinburgh the —— and —— days of —— 17— years, for the cauſe therein ſpecified, gave, granted and diſponed to the deceaſed M. A. M. ſometime miniſter at A. and to M. G. M. his ſecond lawful ſon, and the longeſt liver of them two, during all the days of their lifetime, all and haill, a yearly penſion of —— pounds yearly, to be uplifted and taken at the terms of payment uſed and wont, forth of the abbacy, barony and lordſhip of F. teinds, fruits, rents, emoluments, and other duties thereof, wherever the ſame ly within this nation, beginning the firſt term's payment at the terms uſed and wont in the ſaid year 17— years, and ſo forth, to continue and endure, and to be intromitted with, uſed and diſponed upon by the ſaid umquhil M. A. M. and the ſaid M. G. M. yearly,

M: yearly, and in all time thereafter during their lifetimes, and the longeſt liver of them two, as ſaid is; in and to the which letter of gift and penſion, and yearly penſion of —— pounds money above written therein contained, and that of the crop 17— years, and thereafter during the lifetime of the ſaid M. G. M. haill heads, clauſes and conditions of the ſaid gift of penſion, the ſaid M. G. M. by his aſſignation of the date the —— day of —— 17— years, made and conſtituted the deceaſed M. T. M. of —— his aſſignee; likeas M. J. M. now of —— ſon, and heir ſerved and retoured, and alſo executor confirmed to the ſaid deceaſed M. T. M. of —— by his right and tranſlation, of the date the —— day of —— 17— years, aſſigned and transferred the haill premiſſes in favours of the ſaid purſuer, as in the ſaid letter of gift, aſſignation and tranſlation more copiouſly is comprehended; by virtue whereof, the ſaid purſuer, as having right in manner foreſaid, has good and undoubted right in and to the ſaid yearly penſion of ——, pounds money foreſaid, and ought and ſhould be anſwered, obeyed and paid thereof, by the feuars, farmers, tenants, tackſmen, pariſhioners and others, intromitters with the teinds, fruits, rents, emoluments, and other duties of the ſaid abbacy, lordſhip and barony of F. now erected into a free barony, called the baroy of G. and others addebted, in payment of the ſaid yearly penſion, forth of the readieſt lands, fruits, rents, emoluments, and other duties thereof, at the terms uſed and wont, and that of all years and terms bygone, reſting owing unpaid ſince the crop and year of God 17— years, and yearly and termly ſinceſyne during the lifetime of the ſaid M. G. M. *And albeit it be of verity*, That the ſaid purſuer, as having right in manner foreſaid, has oft and divers times deſired and required —— feuars, tenants and poſſeſſors of the lands and others after ſpecified, *viz.* —— which is an half or a part of the ſaid abbacy, lordſhip and barony of F. now called the barony of G. and called the lands of M. their half, forth of which, and other half thereof, the ſaid yearly penſion is appointed to be uplifted in manner foreſaid, to have readily anſwered, obeyed, and made good and thankful payment to him, as having right in manner foreſaid, of the ſum of —— Scots money, as due and payable by them forth of their part and portion of the ſaid barony of G. and ſo found by decreet obtained at the inſtance of the ſaid deceaſed M. T. before the late pretended commiſſioners, againſt the ſaid laird of M. the —— day of —— 17— years, and that yearly, the crops and years of God —— in which year the ſaid M. G. deceaſed, after the form and tenor of the ſaid letter of gift, aſſignation and right, and diſpoſition thereof above written: *Nevertheleſs*, they wrongouſly refuſe, poſtpone and defer to do the ſame; nor yet will they ſuffer the ground to be pointed therefor, albeit the blench-duties of the ſaid abbacy, and payable forth thereof by the ſaid laird of M. to Us, as one of the baronies of that erection, and whoſe vaſſals the defenders are, be *debitum fundi*, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully ſummon, warn and charge —— to compear before the Lords of Our council and ſeſſion at Edinburgh, or where it ſhall happen them to be for the time, the —— day of —— next to come, *&c.* in the hour of cauſe, with continuation of days, to anſwer at the inſtance of the ſaid purſuer

in the said matter: *That is to say*, The said defenders to hear and see the premisses verified, and proven to be of verity; and the same being so verified and proven, to hear and see themselves, as feuars, vassals and possessors of the said laird of M. half or part of the said abbacy, lordship and barony of F. now called the barony of G. forth of which, and other half thereof, the said yearly pension is appointed to be uplifted, in manner above specified, not only decerned, by decreet of Our said Lords, to readily answer, intend, obey and make good and thankful payment and deliverance to the said pursuer, as having right in manner foresaid, of the said sum of —— money above written, due and payable forth of their part and portion of the said barony of G. and that yearly, the crops and years of God above mentioned; but also, for the said pursuer his more sure and ready payment, the said defenders to hear and see Our other letters ordained, by decreet foresaid, to be directed to messengers at arms, charging them to pass, and in Our name and authority, search, seek, fence, arrest, apprise, compel, pound and distrenzie the readiest goods and gear, corns, cattle, insight, plenishing, horse, nolt, sheep, and other moveable goods and gear whatsoever, poindable and distrenzieable, being, or that shall happen to be upon the ground of the said lands, and others foresaid, make penny thereof, and, failing of moveable goods and gear poindable, to apprise the ground-right and property thereof, conform to the act of parliament, to the avail and quantity of the said —— pounds, due forth thereof, and that yearly the said years, and make the said pursuer completely paid of the same, after the form and tenor of the said letters of gift and pension, and remanent writs above narrated, laws and daily practique of this Our realm heretofore inviolably observed in the like cases in all points; or else to alledge a reasonable cause, *&c.* With certification to the said defenders if they fail, Our said Lords of council and session will proceed in the said matter, and decern therein, in manner foresaid. According to justice, *&c.*

Nota, It may allow of a bill, because of the poinding of the ground, and privileged on six days, the subject-matter being a blench-duty, and so *debitum fundi*.

SUMMONS *at the Instance of an Heir-male, being a Brother, against the Heirs of Line, to obtain the right of the Defunct's (their Father) his Estate, real and personal, established in their Persons by Service, Retour, and confirmed Testament, and to make over the same in his Favours, conform to the Father and Mother their Contract of Marriage, by which all, as well as the Land, was tailzied to the Heirs-male of the Marriage; which failing, to the Defunct's Heirs-male whatsoever, and the Daughters of the Marriage only provided to particular Portions; and upon Payment whereof, or Security therefor, the Heirs of Line, or Daughters, were expressly bound to denude*, ut supra.

GEORGE, *&c.* Forasmuch as it is humbly meant and shown to Us by M. L. G. now of D. brother-german, and nearest heir-male served and retoured to the deceased Sir J. G. of D. and thereby having sufficient,

good

good and undoubted right and intereſt to proſecute, follow forth, and purſue the action after ſpecified, in manner, upon the grounds, in the terms, and to the effect after mentioned: That where by contract matrimonial made and paſſed betwixt the ſaid deceaſed Sir J. G. of D. advocate, (deſigned for the time M. J. G. of —— advocate) on the one part, and M. A. S. ſiſter-german to W. E. of T. with the ſpecial advice and conſent of D. M. H. her mother, and of the ſaid W. E. of T. her brother, (at whoſe inſtance execution was thereby appointed to follow thereupon, for implement of the clauſe and conditions therein ſpecified, conceived in favours of his ſaid ſiſter) and them all with one conſent and aſſent on the other part, of the date the —— day of —— 17— years, the ſaid deceaſed Sir J. G. (in contemplation of the marriage then contracted, and thereafter ſolemnized betwixt him and the ſaid M. A. S.) not only provided her in liferent, during all the days of her lifetime, to the lands and others therein mentioned, the way, manner, and of the yearly duty therein rehearſed; but alſo (with and under the burden always of the ſaid liferent) bound and obliged him to provide and ſecure, not only the lands and others ſo liferented, but alſo the wadſet rights ſtanding in his perſon, upon the lands of —— lying within the pariſh of —— and ſheriffdom of —— under reverſion to —— and his heirs, for the ſum of 16,000 merks, or thereby, with the ſum of 14,000 merks further due to the ſaid Sir J. G. upon other heritable and moveable ſecurity, extending in haill to the ſum of 30,000 merks Scots money, in favours of the ſaid Sir J. G. himſelf, and the heirs-male to be procreated of the ſaid marriage betwixt him and the ſaid M. A. S. which failing, in favours of his other heirs-male whatſoever; which failing, to his heirs or aſſignees whatſoever; and to grant all rights requiſite thereanent, with warrandice as therein rehearſed: And in caſe the ſaid wadſet-rights, or any of them, ſhould happen to be redeemed from him, as ſince they were, or if he ſhould uplift any of the ſums due to him upon other heritable or moveable ſecurity, as ſaid is, then, and in theſe caſes, or either of them, he obliged him and his foreſaids of new again to employ the ſaid ſums, or ſuch of them as he ſhould happen to uplift, in manner, and to the effect above written: And in regard, that by the ſaid Sir J. G. his rights and infeftments of the foreſaid lands, and alſo by the condition of the ſaid contract, the ſame were provided in favours of his heirs-male, as ſaid is, wherethrough the daughters of the ſaid marriage (if any were) are excluded from all benefit of ſucceſſion to him therein; therefore it was agreed and condeſcended on betwixt the ſaid parties, that in caſe there were no heirs-male, but daughters only, one or more procreated of the ſaid marriage betwixt them, that then the ſaid Sir J. G. his heirs-male ſucceeding to him in the right of the ſaid lands, and other means and eſtate above written, ſhould be holden and obliged to pay to the ſaid daughters, one or more, the ſeveral portions under written, in manner, and at the terms after ſpecified: *That is to ſay*, If there were but one daughter, to pay to her the ſum of 10,000 merks Scots money; and if there were but two daughters, to pay to them the ſum of 12,000 merks betwixt them, whereof 8000 merks to the eldeſt daughter, and 4000 merks to the ſecond; and if there were three or more daughters of the ſaid marriage, to pay to them the

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ſum of 14,000 merks money foreſaid, to be proportioned and divided amongſt them, at the ſight, and by the advice of two of their neareſt of kin on the father's ſide, and other two on the mother's ſide: And which reſpective proviſions above-written, the ſaid Sir J. G. obliged him and his foreſaids, to pay to the ſaid daughters, at their reſpective ages of ſixteen years complete, or at their reſpective marriages, which of them firſt occurred; and in the mean-time, to educate, aliment and maintain them honeſtly and virtuouſly, in bed, board, abulziements, and other neceſſaries ſuitable to their quality and degree; and alſo, to make payment to them of the annualrent of their ſeveral portions and proviſions aforeſaid, ſo long as the ſame ſhall happen to remain unpaid after the reſpective terms above-ſpecified: And in like manner, to warrant, relieve, diſburden, and ſkaithleſs keep the ſaid daughters, and their ſaid patrimonies and proviſions, from all actions, pleas, proceſs, and other incumbrances whatſoever which could anyways trouble or affect them, as heirs of line or executors to their ſaid father, or otherways repreſenting him or his predeceſſors, and of all coſt, ſkaith, damage, intereſt or expences that they or either of them ſhould happen to ſuſtain or incur therethrough in time coming; and which patrimonies and proviſions in favours of the ſaid daughters, ſhould be in full ſatisfaction to them of all heirſhip moveables, executry, portions, natural or bairns part of gear, or others whatſoever that they could aſk or crave by and through their father's deceaſe any manner of way; which (with all action, inſtance and purſuit competent to them thereanent) they are (upon payment of their ſaid proviſions) holden and obliged to renounce and diſcharge in favours of the ſaid Sir J. G. his heirs male and aſſignees above-written. And for the which cauſes, and on the other part, the ſaid M. A. S. with conſent foreſaid, conſtitute the ſaid Sir J. G. his heirs and aſſignees, her lawful ceſſioners and aſſignees in and to the ſum of 6000 merks money foreſaid of principal, 600 merks of penalty, and annualrents of the ſaid principal ſum, forth and from the term of —— 17— years, and in time coming during the not-payment of the ſame, contained in a bond of proviſion granted to her by the ſaid W. E. of T. her brother, of the date the —— day of —— 17— years, and in and to the ſaid bond, with all that might follow thereupon, and ſurrogate them in her full right thereof for ever, and that in name of tocher. Likeas, the ſaid D. M. H. (for the cauſe ſpecified in the ſaid contract, and for a further help to her ſaid daughter's patrimony, and proviſion aforeſaid) bound and obliged her, and her heirs, executors and ſucceſſors, to make good and thankful payment to the ſaid Sir J. G. and his foreſaids, of the ſum of 1000 merks money foreſaid, betwixt and the term of —— 17— years, without longer delay, with 100 l. money above-written of liquidate expences, in caſe of failzie, and annualrent thereafter during the not-payment, as the ſaid contract matrimonial, of the date foreſaid, in itſelf more fully proports. *And true it is*, That the ſaid deceaſed Sir J. G. the time of his deceaſe, (which was in the month of —— 17— years), had pertaining and addebted to him, the heritable and moveable bonds, obligations and tickets after-ſpecified, granted by the perſons after-named, (containing the ſeveral ſums of money after-mentioned), partly heritable, and partly moveable in their conception, as is hereafter expreſſed,

ſed, *viz. (here inſert the bonds, obligations, and tickets, and by whom, with the principal ſums when payable, with what penalties, and from what term and time they bear annualrent, and whether conceived payable to the defunct his heirs and aſſignees, (ſecluding executors) or to him, his heirs, executors or aſſignees, or to himſelf ſimply, without mentioning either of theſe, and then ſay)* And ſicklike, the ſaid defunct, the time foreſaid, had pertaining and addebted to him, the heirſhip moveables, utenſils and domicils, and other moveable goods and gear underwritten, of the avails, quantities, eſtimations and prices after-rehearſed, *viz. (here inſert all that are proper to be inſert in this place, and then ſay)* And in like manner, the perſons *reſpectivè* after-named, were addebted and reſting owing to the ſaid defunct, the time of his ſaid deceaſe, the ſums of money bygone, reſts of the duties of his eſtate, and others after-ſpecified, (and for which he had no ſecurity, but ſtated in accompt) each one of them for their own parts, as is hereafter divided, *viz. (here libel all due to the defunct not by writ, and then ſay)* and to all which bonds, obligations and tickets, both heritable and moveable, heirſhip moveables, utenſils and domicils, and other moveable goods, gear, debts, ſums of money, and others above mentioned, and values of the ſaid goods, gear and reſts, the ſaid purſuer, as heir of tailzie foreſaid to his ſaid deceaſed brother, and by the conception of the ſaid contract of marriage, has ſufficient, good, and undoubted right and intereſt, and the daughters or heirs of line of the ſaid marriage (now terminated in two, *viz.* E. and L. G.) expreſly obliged (upon payment of their portions and proviſions aforeſaid, and which accordingly is ſecured by him to them ſince their ſaid father's deceaſe, by a contract of agreement paſſed betwixt their ſaid mother and him, dated the —— day of —— laſt bypaſt) to renounce and diſcharge all right or pretence they have or can pretend thereto, or make over the ſame in his favours, as the more legal and habile way. *And albeit it be of verity*, That the ſaid purſuer, as heir-male foreſaid, has oft and divers times deſired and required the ſaid E. and L. as daughters and heirs of line only now on life to the ſaid deceaſed Sir J. G. at leaſt lawfully charged to enter heirs of line to him within forty days, conform to the act of parliament, and their tutors and curators for their intereſt, to (6) obtain the right of the ſaid bonds, obligations, tickets, debts, ſums of money, heirſhip moveables, utenſils, domicils, and other goods and gear above-ſpecified, eſtabliſhed in the perſon of the ſaid E. and L. as daughters and heirs of line, and likewiſe as executors and neareſt of kin to their ſaid deceaſed father, and that by ſervice and retour, as to ſuch as are heritable, and by confirmed teſtament, as to ſuch as fall under the compaſs of teſtament and confirmation, and to grant procuratories for that effect in due and competent form; and being ſo eſtabliſhed in their perſons, to denude themſelves of the premiſſes, as well heritable as moveable, and moveable as heritable, falling under both the ſaid titles of heirs and executors and neareſt of kin, in favours of the ſaid purſuer, as heir-male foreſaid, and of his heir-male and aſſignees, *omni habili modo;* and for that effect, to make, grant, ſubſcribe and deliver to him and his foreſaids, ſufficient aſſignations, tranſlations, and other rights and ſecurities requiſite and neceſſary thereanent, with warrandice from their

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own proper facts and deeds, and to deliver to him, as heir-male foresaid, such of the said writs, heirship-goods, and other goods, gear, and others above-mentioned, pertaining to the said defunct, as they have in their possession, with their own titles thereto; (7) nevertheless, they and their said tutors and curators wrongously refuse, postpone, and defer to do the same, without they be compelled, as is alledged. *Our will is herefore*, and We charge you, that ye lawfully summon, warn and charge the said E. and L. G. *nominibus passivis quibus supra*, personally, or at their dwelling-places, on twenty-one days warning, and their tutors and curators, if they any have, for their interest, by open proclamation at the market-cross of —— and other places needful, to compear (*here follow forth the ordinary style, and then say*) to answer at the instance of the said pursuer, as heir-male foresaid, in the said matter: *That is to say*, The said E. and L. G. upon the passive titles above-specified, or one or other of them, and their said tutors and curators for their interest, to hear and see themselves decerned and ordained, by decreet of Our said Lords of council and session, to (*here take in from the figure* (6) *till ye come to the figure* (7), *and then say*) after the form and tenor of the contract of marriage, and conception thereof in favours of the heir-male, laws and daily practique of this Our realm heretofore inviolably observed in the like cases, in all points, or else to alledge a reasonable cause why the same should not be done: With certification to the said defenders, if they fail, Our said Lords of council and session will proceed in the said matter, and decern therein in manner foresaid. According to justice, as ye will answer, *&c.*

Nota, This summons needs no bill; but, upon bill, might have been privileged upon six days, and needed no continuation, being founded upon the contract of marriage, and the passive title, lawfully charged to enter heirs, instructed *scripto*, by the letters and executions.

END OF THE THIRD PART.

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A GLOSSARY,

EXPLAINING

Some Terms of SCOTS LAW.

A

ABSOLUTE Warrandice, is a warrant againſt all mortals.

Action for poinding of the ground, is ſo called, becauſe it is founded upon ſome infeftment for an annuity (whether annualrent, liferent, or feuduty, &c.) that affects the ground; and the ground being thus debitor, its called *debitum fundi*, for which both moveables found upon the ground may be poinded, and theſe failing, the property affected by this ſervitude may be appriſed or adjudged, even in prejudice of interveening ſingular ſucceſſors.

Action againſt debtors, is when we purſue ſeveral perſons for ſeveral debts in the ſame libel.

Action, in the Scots law, is a proſecution by any party of their right, in order to a judicial determination thereof.

Act before anſwer, is when the lords ordain probation to be led, before they determine the relevancy, and then takes both at once under their conſideration.

Act of curatory, is the act extracted by the clerk upon any body's acceptation of being curator.

Adjudication ſpecial, is when the Lords of Seſſion, proportionally to the ſums due, adjudge to the creditor ſome part of the debtors lands, with a fifth part more; beſide compoſition due to the ſuperior, and expences for obtaining infeftment: but if the debtor do not conſent to ſuch an adjudication, in the terms of the act of parliament 1672, all his lands and other heritable ſubjects are adjudged in the ſame manner, as they were formerly appriſed.

Adjudication after the old form, is when the *hæreditas jacens* (the heir having renounced) is adjudged to the creditor for payment of his money.

Ann or annal, is half a year's ſtipend, over and above what is owing for the incumbency, due to a miniſter's relict, bairns, or neareſt of kin after his deceaſe.

Annuities of teinds, are ten ſhilling out of the boll of teind wheat, eight ſhilling out of the boll of beer, ſix ſhilling out of the boll of rye, oats and peaſe allowed to the king yearly out of the teinds not payed to Biſhops, or ſet apart for other pious uſes.

Arreſtment, is the command of a judge, diſcharging any perſon, in whoſe hands the debtors moveables are, to pay or deliver up the ſame, till the creditor, who hath procured the arreſtment to be laid on, be ſatisfied either by caution or payment, according to the reſpective grounds of arreſtment.

B

Baſe infeftment, is when the vaſſal diſpones lands to be holden of himſelf.

C

Charter, is a diſpoſition to a feu.

Chattels, are all moveable goods.

Colluſion, is when a debtor concurs with one creditor, in oppoſition to the other, that he may firſt complete his diligence.

D

Declarator, is an action, whereby we crave ſomething to be declared in our favours.

Decreet *cognitionis cauſa*, is when the apparent heir is called to hear the debt conſtitute, it not being already clearly conſtitute by writ; and the apparent heir renounces, being charged to enter heir.

Decreet *cognitionis cauſa*, againſt executors, is when the neareſt of kin are purſued by the executor creditor, who hath no writ to inſtruct his debt to hear the debt conſtitute.

Decreet

Decreet of compriſing, is when at the day appointed in the letters, the debtor being called, the meſſenger offers him his lands for the money; which if he have not ready, the inqueſt declares the lands to belong to the creditor, for his payment.

Decreet of Exoneration, is a decreet of the commiſſars againſt the creditors or neareſt of kin; wherein it is proven, that the executor hath executed the whole teſtament, and that all is exhauſted by lawful ſentences.

Decreet of Locality, is a decreet modifying a ſtipend for a miniſter, dividing and proportioning the ſame among the heritors.

Decreet of modification, is that which modifies a ſtipend to a miniſter, but doth not divide and proportion it among the heritors.

Decreet of Valuation, is a ſentence of the Lords (who are now in the place of the commiſſion) determining the extent and value of teinds.

Diſpoſition, is a writ diſponing lands, or other immoveable rights, containing a precept of ſeiſin and procuratory of reſignation: there may likewiſe be a diſpoſition of moveables.

Diſpoſitive clauſe, is that clauſe of a charter, which contains the lands diſponed.

Diſtringas, is a writ directed to the ſheriff, or any other officer, commanding him to diſtrain one for debt to the king.

E

Earneſt, is ſomething given, as a mark of agreement in contracts.

Exhibitions, are actions craving a writ or thing to be exhibite.

F

Feu, is a free and gratuitous right to lands, made to one for ſervice to be performed by him, according to the proper nature thereof.

Feu-holding, is whereby the vaſſal is obliged to pay to the ſuperior, a ſum of money yearly.

Feu-annuals, is that which is due by the Reddendo of the property of the ground, before the houſe was built within burgh.

Forthcoming, is an action, wherein the arreſter libels, that having raiſed letters of arreſtment, he cauſed arreſt all debts, owing by the defender to his debtor, to remain under arreſtment, and to be made forthcoming to him; and therefore concludes, the defender ſhould be decerned.

G

General Brief, is that which hath two heads, viz. if the defunct died at the kings peace, and if the raiſer of the brief be the next heir.

Ground-annual, is diſtinct from feu-annual, and is conſtitute upon the ground, before the tenement in a burgh was built.

H

Hameſucken, is aſſaulting or beating a man in his own houſe.

Heir, is he who ſucceeds univerſally, in all that belonged to the defunct.

Heir of Line, is he who ſucceeds lineally, by right of blood.

Heir male, is the neareſt male heir who can ſucceed.

Heir paſſive, is he whom the law makes liable to be heir.

Heirs portioners, is when women ſucceed: in that caſe they have all equal portion.

Heirs of proviſion, are thoſe who ſucceed by virtue of a particular proviſion in the inſeſtment, or in any other writ; ſuch as heirs of a ſecond marriage.

Heir of tailzie, is he to whom an eſtate is tailzied; ſo called, becauſe the legal ſucceſſion is cut off in his favour.

Heirs whatſomever, are thoſe who would ſucceed to any heritable right according to law; or in a word, they are the lineal heirs.

Heirſhip moveables, are the beſt of each kind of moveables.

Heritable rights, in a ſtrict ſenſe are only lands, but in a legal ſenſe, it is all that falls to the heir.

Homologation, is when a man, either by expreſs or tacite conſent, ratifies a deed that formerly was null or invalid.

I

Implead, ſignifies to ſue, arreſt, or proſecute by courſe of law.

Improbation, is an action, whereby we purſue papers to be declared falſe and forged.

Inſeſtment, ſignifies the right conſtitute of a fee, *alias* inveſtiture, which ſignifies the writs which are evidents, ſignifying the acts conſtitute in the fee.

Inſeſtment of annualrent, is when a vaſſal is not inſeſt in the property of particular lands, but is inſeſt in an yearly annuity of money, to be paid out of the lands.

Inſeſtment ſimple, is that which is taken to heirs whatſomever, to which tailzied inſeſtment is oppoſite.

Inhibition, is a perſonal prohibition, by letters under the ſignet, diſcharging the party inhibited to ſell or dilapidate any way his lands, in prejudice of the debt due to the raiſer of the inhibition.

Inſtruments in a proceſs, are writs, teſtimonies, oaths of parties, witneſſes, &c.

Jury, ſignifies a certain number of ſo many ſworn men, appointed to inquire into a matter of fact.

L

Law-borrows, is a caution found, to do nothing but by order or law.

Leaſe, is a letting of lands or tenements to another, for term of years or life.

Letters in general, are writs authoriſing any thing to be done.

Letters of fire and ſword, is when the privy council commiſſionates the ſheriff, by all manner of force, to diſpoſſeſs him, who in ſpite of all law, after he is legally ejected, continues to poſſeſs.

Letters of ſlaines, are writs or evidents of perſons injured, or of the neareſt friends of a perſon murdered, teſtifying, that they are now ſatisfied, and that they forgive, and paſs from any offence done them or their friends, by the offender or guilty perſon.

M

Miſpriſion, ſignifies in the Engliſh law, any neglect or overſight.

Multiple-poinding, is a ſummons wherein the complainer narrates, that he is troubled by ſuch and ſuch perſons, who each of them pretend a right to a ſum, land or other ſubject, in which he is liable, and concludes that they ſhould compear to hear and ſee the ſame tried, and who hath preferable

ferable right declared, and all others discharged to trouble him thereafter.

P

Patents, are letters or writings sealed with the great seal, whereby a man is authorised to do, or enjoy any thing, that otherways of himself he could not.

Pipe, is a roll in the exchequer, otherways called the great roll.

Poinding, is a judicial sentence, whereby the messenger who is constitute judge, takes the moveables, apprises them at the mercat cross of the chief burgh, and transfers the property of them to the creditor.

Precept of *clare constat*, is when the superior gives a precept of seisin, because he says, it is known to him, that such a man is heir to his father or other predecessor.

Precept of seisin, is the superiors command in the charter to his baillie or attorney, to give actual state and seisin to the vassal.

Privileged debts, are servants fees, medicaments on death-bed, horse-mail, and funeral expences.

Process, is an action sustained by a judge, that thereupon an act or definitive sentence may follow, yet vulgarly any summons, when but called by a clerk and appointed to be seen, is called a process.

Q

Qualified oath, is when the deponer swears not simply, but circumstantially.

R

Rape, is a felony committed by a man in the violent deflouring of a woman against her will.

Redeemable rights, are those which return to the disponer, upon payment of the sum, for which those rights are granted.

Reduction, is an action, whereby we pursue a right to be declared null, and to be reduced.

Regalia, are what belong to the king in an eminent degree, and are never presumed to be granted, but require a special disposition, except what follows the disposition of a barony, which is *Nomen universitatis*,

Relief, is when the heir relieves the executor of all heritable debts, and the executor relieves him of all moveable debts.

Requisition, is, when conform to the tenor of the reversion, the wadsetter is required to come himself to the place of consignation and receive his money.

Resignation, is when lands are resigned in the superior's hands for new infeftment.

Restitution, is when the king restores a man against a forefaulture.

S

Seisin, is the delivery of earth and stone, or other proper symbols, with a design to transfer a right to lands.

Servitudes, are burdens affecting property and rights.

Sheriff, is the king's chief officer commissionate under the great seal to preserve the peace and put the laws in execution: he hath a criminal and civil jurisdiction.

Simple warrandice, is an obligation to warrant or secure from all subsequent or future deeds of the granter.

Scorners, are such as masterfully take meat and drink from the king's people without payment.

Special legacy, is when any particular thing is left to a man in testament.

Special service, is when a man is served heir to any particular lands.

Spulzie, is the taking away, or meddling with moveables in another's possession.

Suit, signifies a following, or pursuing in law, or any otherways.

Summons, a *summonenda*, it is whereby the defenders are cited to appear and answer.

Suspension, is a stop to the execution of sentences for a time.

T

Tack-duty, is the hire given by the tacksman to the setter or his heirs, for lands conducted.

Teinds, is a part of our goods due to God; with us, the fifth boll of free rent.

Thirlage, is that servitude whereby the lands of one heritor are to pay some duty to the mill of another.

Tunnage, is a custom or impost paid to the king for merchandise carried out, or brought in ships, according to a certain rate upon every tun.

W

Wadset, is a right, whereby lands are impignorated or pledged for security of a special sum.

Wakening, is a summons narrating, that the complainer had raised a summons which he had let sleep for year and day, concluding that all persons cited in the first should compear, hear and see the foresaid action called and wakened, and debated till sentence be given.

Warrandice from fact or deed, is when the granter warrants against all deeds of himself past or to come.

Wharf, is a broad plain place near a creek, or hith of the water to lay wares on, that are brought to, or from the water.

Writ of error, is properly that which lyeth to redress false judgement, given in any court of record.

Ultimus hæres, is the king who succeeds, failing all relations.

Union, is a clause in an infeftment, whereby lands or tenements, lying discontigue, are incorporated, so that one seisin may suffice for them all.

Usury, is when the wadsetter is secured in more than his annualrent, and yet the granter pays the public burdens; or taking of more than the legal annualrent any other way.

Vassal, is he who hath lands immediately holding of the superior.

Verdict, is the answer of a jury, made upon any cause civil or criminal, committed by the court to their examination.

Vicious intromission, is when any intromits with the defunct's moveables without confirmation, or other probable title.

Voucher, signifies when the tenant calls another into the court, that is bound to him to warranty.

END of the FIRST VOLUME.

E. H. A. A.